

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK - PART 7

PEOPLE OF THE STATE OF NEW YORK,

Case No.:
539-07

-against-

LAMAR WHITEHEAD,

Defendant

TRIAL TRANSCRIPT

March 18, 2008
210 Center Drive
Riverhead, New York

B E F O R E :

THE HONORABLE JAMES HUDSON,
Suffolk County Judge

For the People:

THOMAS J. SPOTA, ESQ.
District Attorney of Suffolk County
Economic Crimes Bureau
North County Complex
Building 77, Veterans Memorial Highway
Hauppauge, New York 1788
BY: RAPHAEL PEARL, ESQ.,
BY: JODI FRANZESE, ESQ.,
Assistant District Attorneys

For the Defendant:

The Law Offices of
WILLIAM KEAHON, ESQ.
One Suffolk Square
Islandia, New York

Reported By:
Jennifer Maue,
Senior Court Reporter

FILED
NOV 13 2009
CLERK OF SUFFOLK COUNTY

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2 THE CLERK: Case on trial, People
3 versus Whitehead. All parties are present
4 outside the presence of the jury.

5 THE COURT: I have been informed by
6 Sgt. Davis, that one of the jurors informed
7 the officer that because of child care issues,
8 that she can't work after five on either
9 tomorrow or Thursday. Another one of the
10 jurors has indicated one of the people in the
11 crane accident in the city was a relative or
12 close friend and he needs to take time off for
13 the funeral on Friday.

14 We're reaching the point in time,
15 we do have four alternates, where, as we come
16 close to the end of this trial, particularly
17 when we have a juror who says he can't be here
18 on Friday. Whether or not you wish to bring
19 the person in, inquire of them or whether or
20 not they should be discharged at that point in
21 time.

22 MR. PEARL: What about inquiring to
23 the jury whether or not it would be a burdenn
24 for them to be here next week.

25 THE COURT: As far as coming back

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2 next week.

3 MR. KEAHON: That might be the
4 solution. Let them know a few jurors have
5 problems.

6 THE COURT: Right. We'll tell them
7 that.

8 Let's see how far we progress,
9 though. We'll get to our original date when
10 we informed them that we would be leaving,
11 that the trial would be ending and that they
12 would be free to leave at that point in time
13 but that is not going to happen if it appears
14 that it won't be, and then particularly when
15 we consider the possible length of
16 deliberations in the case and find out who it
17 is going to be a burden for, and we'll inquire
18 individually as to each one we keep in.

19 I'm glad we picked four alternates.

20 Is there anything to place on the
21 record before we bring in the jury?

22 MR. KEAHON: Yes, judge, I got here
23 at ten minutes of two to look over that book
24 that Ms. Fortune reviewed and identified items
25 from. I haven't had an opportunity to do

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2 that.

3 THE COURT: All right.

4 MR. KEAHON: The evidence isn't
5 here yet.

6 THE COURT: All right.

7 MR. KEAHON: Secondly, I had called
8 your chambers at about twelve, asking for
9 permission to come in and do that. I just
10 have to also make sure that all the items that
11 should have been taken out were taken out. I
12 went over again last night what I believe were
13 the redactions that were to take place.

14 Thirdly, judge, last week and even
15 as of yesterday, I told the court that I
16 wanted any new charts on the handwriting, and
17 both assistant district attorneys said there
18 would be no new charts. I come in this
19 morning, and there is a different chart. It
20 is a surprise. I'm moving to preclude. I
21 know the court and everyone in this courtroom,
22 is trying to get this case completed, as
23 expeditiously as possible, but I'm being taken
24 advantage of.

25 THE COURT: The question is, how is

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2 it different?

3 MR. KEAHON: I'll show you.

4 THE COURT: If you would.

5 MR. KEAHON: Before I do that, let
6 me address myself to the other exhibit.

7 Is that door closed?

8 THE COURT: Officer, could we close
9 that door, please.

10 MR. KEAHON: Your Honor, this is a
11 chart which is a blow-up of a document that I
12 have. And this was brought down into the
13 courtroom to be admitted. Inmates' signature.

14 This says "signature of prisoner".
15 They blocked this out. I want all this out.

16 I obviously want "inmate's
17 signature" out. I mean, how does this happen?
18 If I didn't catch this, this goes into
19 evidence, and we have a mistrial. Or the
20 court says, no, I'll give a curative charge.

21 THE COURT: The fact remains that
22 you did catch it, for which the court commends
23 you as an advocate, Mr. Keahon.

24 How can that be redacted?

25 MR. KEAHON: And let me just show

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2 you, if I could. As far as Mr. Luber and what
3 he's doing. The original document I was
4 given, a smaller size, doesn't have "inmate's
5 signature" in it.

6 THE COURT: Thank you. Thank you.

7 MR. KEAHON: So when the blowup was
8 done, space was included so that "inmate's
9 signature" could fit in there. How could he
10 not have spotted that?

11 I feel like I'm being ambushed. I
12 want to mark as an exhibit, this document as
13 part of the court record, as a court exhibit.
14 I blacked out this.

15 (Indicating) as far as what I
16 wanted out. Which says, "signature prisoner".

17 THE COURT: Thank you.

18 MR. KEAHON: Perhaps we can have
19 the original that was given me without my
20 scratching on it, photostat it, and make it a
21 court exhibit.

22 THE COURT: Thank you. Do the
23 people wish to be heard?

24 MR. PEARL: Judge, the adjective of
25 "ambush", if it was an ambush, it wouldn't be

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2 presented to him a day before it is being
3 presented. Mr. Luber is not scheduled until
4 the very end of today or tomorrow morning. If
5 it was an ambush, we wouldn't show Mr. Keahon.

6 We have been bending over backwards
7 to do whatever Mr. Keahon asks, including have
8 the detective go out and do an investigation
9 that Mr. Keahon requested. To use an
10 adjective like "ambush" is not becoming to Mr.
11 Keahon, or something the court should
12 entertain.

13 MR. KEAHON: We were all told Mr.
14 Luber was testifying today. We all were told
15 that. That is why these documents are down
16 here.

17 MS. FRANZESE: Your Honor, if I
18 just may. That is not why these documents are
19 down here. Mr. Luber is anticipated about
20 4:00 o'clock today, based on an average of how
21 each piece of testimony is going. Those
22 exhibits are not going to be put in until the
23 end of Mr. Luber's direct examination. I
24 brought those down specifically because Mr.
25 Keahon has requested and indicated that he

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2 would need to see all the exhibits one day
3 prior to them being offered into evidence.

4 I have been trying to keep him
5 abreast of everything. Every time I get a
6 fax, I copy it and hand it over to him. What
7 Mr. Pearl was indicating on the record with
8 the investigations by our detective, I did
9 hand counsel, we received it via UPS and I
10 copied the results of the investigation, and
11 handed it to Mr. Keahon. It should be on his
12 desk right now.

13 MR. KEAHON: That is in reference
14 to Mr. Lee's testimony from Capital One. When
15 I questioned him as to where the reverse of
16 the Wojcieh check was, he said they didn't
17 have it. I asked him if he would please go
18 back where he comes from, search the records
19 and forward it to me. That was what was done.

20 THE COURT: Now we're mixing
21 issues.

22 MR. PEARL: The other issue is Det.
23 Gabriele went out and investigated what Mr.
24 Keahon asked him to do, which was to go out
25 and trace where this computer is sold, as

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2 well. We have been bending over backwards to
3 get what Mr. Keahon asks for, as a courtesy,
4 and whatever he wants, he has been getting
5 from the people.

6 THE COURT: Thank you.

7 MR. KEAHON: What Mr. Pearl just
8 spoke to is partially at the direction of the
9 court. The court, as you recall, I'm sure
10 suggested to the district attorney that if
11 they have the information of when this
12 computer first came into existence, or how it
13 got here in the United States, to let me know
14 if they find out.

15 They did, and I appreciate that,
16 Raphael. Each night I call the district
17 attorney's, they speak to me and they tell me
18 who their witnesses will be.

19 MR. PEARL: That is true.

20 THE COURT: Thank you.

21 This disagreeable exchange by my
22 officers and the court was engendered I must
23 say by your intemperate use of the word
24 "ambush". You could zealously represent your
25 client's interest and obtain a ruling in your

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2 favor without resort to such language.

3 However, your point is well met.

4 The court will direct that that exhibit,
5 before it is shown to the jury, be redacted or
6 changed to where it reflects the
7 aforementioned exchange documents, which have
8 been shown to you. In any event, I would have
9 entertained the application to strike that as
10 a possibility of prejudicing the jury, or
11 allowing idle speculation, and there is no
12 necessity for that.

13 Since it is not going to be shown
14 to the jury at this time, my only question is
15 can it be done without having to prepare an
16 entirely new blow-up document, Ms. Franzese?
17 Mr. Pearl?

18 MR. PEARL: I'm sorry, judge.

19 THE COURT: The aspect that says.

20 MR. KEAHON: "Signature" is okay.

21 "Of prisoner", I don't want to
22 trust that we scotch tape something over it
23 or...

24 MS. FRANZESE: Judge, for the
25 record.

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2 THE COURT: Would a marker work.

3 MS. FRANZESE: Your Honor, I put
4 that there to -- just to indicate to Mr.
5 Keahon today that I understood what he was
6 saying and I was going to make that a little
7 more permanent and a little more neater.

8 MR. PEARL: If we can, we'll try to
9 make that chart again by tomorrow morning.

10 THE COURT: Thank you very much.

11 MR. KEAHON: Obviously, "inmate's
12 signature" comes out.

13 THE COURT: Of course.

14 MR. KEAHON: Turning to the next
15 exhibit. Is your Honor able to see it?

16 THE COURT: Yes, I am. Thank you.

17 MR. KEAHON: Hillside Rides remains
18 the same. 50,000 zero is the same. Maria
19 Macarle and 57 remains the same.

20 "Brooklyn" is added. \$3,400.79.
21 The "known writing" of Lamar Whitehead, should
22 be "purported known writing", which was on the
23 original chart. This is a determination for
24 the jury to make, not for the maker of the
25 exhibit.

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2 Below \$3,470, is 500 dollars and
3 zero cents, that was in the original one that
4 was given to me.

5 On the original document, it had
6 "FMO" in a block, then "THIS" in a block, then
7 "Magnolia" in a block, then "fight" in a
8 block.

9 Now we have added "Brooklyn", I
10 don't know where that came from, "BBC", I
11 don't know where that came from. They have
12 "Brooklyn", again. It looks like down here,
13 that wasn't in the original exhibit.

14 Instead in the original exhibit was
15 "M Vickers", mid cap, "Malen" is the same.

16 There was never any "Park Place".
17 That is a new item.

18 Consal -- "CONSALTON" was not in
19 the original.

20 Remember, this is today I'm getting
21 this. Two hours before he's supposed to
22 testify. "Lamor" was never in it, I don't
23 know where they got this from.

24 Instead, there was "HRIS" and then
25 a new block of "AMPA"

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2 "Park Place", was never in it. I
3 don't know where these items came from.

4 MS. FRANZESE: Your Honor, they are
5 labeled and they are labeled on the copy of
6 that chart that I gave to Mr. Keahon today.

7 THE COURT: Ms. Franzese, the new
8 items that Mr. -- that counsel refers to, are
9 they drawn from other documents, other
10 exhibits which are currently either in
11 evidence or that you reasonably anticipate
12 will be entered into evidence today?

13 MS. FRANZESE: Yes, your Honor.
14 And this exhibit, they should all be coming
15 from exhibits 153, et al.

16 Your Honor, the reason why counsel
17 has a copy of an older chart, is that is the
18 chart pre the *People vs. Fields* discussion.

19 THE COURT: Right.

20 MS. FRANZESE: I provided that to
21 counsels as a courtesy so he would know what
22 the chart would look like.

23 I gave counsel the new chart today
24 because this is the chart post the *People v*
25 *Fields* rulings and discussions.

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2 THE COURT: Thank you.

3 MR. KEAHON: The point respectfully
4 is at the same time you made the ruling -- I
5 asked if there were going to be new charts as
6 late as yesterday I asked are there going to
7 be any new charts? Answer: No.

8 THE COURT: The charts are not
9 evidence themselves. They explain other
10 items, what may be entered into evidence. The
11 question of surprise only becomes viable if
12 the items themselves, which the exhibit
13 purports to depict, were presented to you
14 late. If they in fact relate to items of
15 evidence that were presented to you earlier,
16 then your argument will not find purchase with
17 the court, with the exception of known writing
18 of Lamar Whitehead.

19 The law in this instance is quite
20 clear. The absence of an acknowledged
21 signature, that an exhibit or before the jury
22 cannot presume to state a question of ultimate
23 fact to the jury, for the jury to establish
24 whether or not it is in fact known, based upon
25 the testimony of another witness. So it does

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2 have to say "purported known" or "alleged
3 known". It cannot be stated as a conclusion.

4 THE COURT: Mr. Keahon, do you wish
5 to be heard further.

6 MR. KEAHON: Notwithstanding an
7 hour and a half before the witness is about to
8 testify, they have added new exhibits to a
9 chart that I'm supposed to listen to, what is
10 going on today on another witness and yet be
11 prepared to cross-examine their expert on what
12 he says these new items are, and now they
13 relate to his testimony as to opinions and
14 conclusions, as to who the author of this is,
15 as well as the fraudulent documents.

16 THE COURT: When you say "new", if
17 they were truly new by virtue of those items
18 which are related on that exhibit being
19 presented to you, then, of course, the
20 jury -- your argument would prevail. But
21 unless you can affirm that those new items, as
22 you described them on that exhibit, were not
23 provided to you, then they are not new. The
24 way they are collated, there, is. Don't
25 anticipate a contrary ruling from the court.

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2 If you require time to examine that, compare
3 that to the other chart, prepare your
4 cross-examination for this witness, I would
5 afford you that at that time.

6 MR. KEAHON: Great. There is
7 nobody in this courtroom, including Mr.
8 Heilig, that given this new chart at this hour
9 of the day would have been prepared to get up.

10 These new additions meant nothing.
11 They weren't related in any of the notes or
12 reports. Neither Mr. Heilig nor anyone in
13 this court would be able to get up and
14 cross-examine on this.

15 THE COURT: Mr. Keahon, I
16 understand how the presentation of a different
17 demonstrative exhibit could affect your
18 cross-examination. I'll afford you the
19 courtesy, as additional time as required, to
20 prepare cross-examination.

21 MR. KEAHON: Additionally.

22 It is my understanding, also, that
23 this Ms. Fortune, who testified yesterday, is
24 now going to testify as to identification of
25 my client's voice on all of those tapes. I'm

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2 moving to preclude. I have been given -- I
3 didn't even know she existed until yesterday.
4 As a witness in your case.

5 MR. PEARL: She's number one on my
6 witness list.

7 MR. KEAHON: You're right. I take
8 that back.

9 There is absolutely no discoverable
10 material that I have been given, any notes or
11 reports, and it is my understanding she
12 listened to it last night for the first time.

13 THE COURT: People?

14 MR. PEARL: That is correct, your
15 Honor. She wasn't an absolutely anticipated
16 witness on the people's list. As a result of
17 *People vs. Fields*, the people went out and
18 sought other witnesses. Ms. Fortune is going
19 to come in and testify as a witness for the
20 hearing. She's already a witness with the
21 defendant's case. It is relevant evidence and
22 the people intend on introducing the -- if we
23 can lay the foundation, as we did with the
24 other witnesses, Ms. Bryant, Ms. Rodriguez,
25 and Nigel DeFreitas, if she's familiar with

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2 his voice, which she indicated through the
3 hearing, we planned on eliciting that
4 testimony as well.

5 THE COURT: Can I see counsel at
6 side bar for a moment, please.

7 Off the record for a moment.

8 (Side bar discussion held off the
9 record)

10 THE COURT: Now we're on the
11 record. The difficulty logistically with
12 calling Ms. Fortune to identify the voice
13 recordings is that you have already concludeed
14 your direct examination.

15 MR. PEARL: Of who.

16 THE COURT: Of Ms. Fortune.

17 MR. PEARL: Only as to the
18 handwriting.

19 THE COURT: You concluded your
20 direct examination of the witness. The
21 cross-examination is going to start. Now.

22 How are you going to get it in on
23 redirect?

24 MR. PEARL: Not -- we had the
25 limited issue of the handwriting. She's a

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2 confirmatory witness. She said she's known
3 him for 15 years.

4 I don't have to notice a
5 confirmatory voice.

6 MR. KEAHON: Sure you do.

7 MR. PEARL: No, you don't. It is
8 confirmatory.

9 MR. KEAHON: It is not what you say
10 it is.

11 THE COURT: What happens if we
12 have -- the trial goes into next week and we
13 have eleven people show up.

14 MR. PEARL: Eleven.

15 THE COURT: Jurors report? What
16 if they just dribble away? We are going way
17 beyond the anticipated length of this trial.

18 MR. PEARL: I understand, that,
19 judge. But I don't understand -- you make the
20 calls and you're the judge. It is clear
21 whether it is relevant or not relevant voice
22 testimony. She can identify his voice. It is
23 confirmatory testimony. I wouldn't have to
24 notice this whatsoever under the law of
25 confirmatory identification. She only

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2 testified she's known him 15 years, she dated
3 him knows and she knows him from the
4 neighborhood.

5 I'll lay the foundation as with all
6 the other witness, have you ever spoken to
7 him, did you recognize his voice. If she says
8 yes to those questions, I'm going to ask the
9 court to allow me to play audiotapes.

10 THE COURT: We're going to have a
11 day on this one.

12 MR. PEARL: Why would that be an
13 issue? I put it -- when I used to work in
14 D.V., we played audio recordings for witnesses
15 all the time. If you can lay the foundation.
16 You don't have to notice something that is
17 confirmatory.

18 MR. KEAHON: Respectfully, it is
19 not your decision whether it is confirmatory,
20 or not. You have to give me notice of a voice
21 identification. And to give me notice of
22 voice identification that is two days before
23 we complete this case, I think is unfair
24 inappropriate and improper.

25 MR. PEARL: I don't have to give

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2 voice notification if I can lay the proper
3 foundation on the record.

4 THE COURT: I'm not saying you
5 can't.

6 Your remedy is a continuance, Mr.
7 Keahon.

8 My concern is the jurat at this
9 point in time.

10 And having a jury not show up,
11 I'm -- I want to let you know, I'm not going
12 to issue a warrant for a missing juror.

13 MR. PEARL: I wouldn't ask you to
14 do that, ever.

15 THE COURT: Really? Don't say
16 ever. It has been asked in the past. You'll
17 have wasted seven weeks of your time in this
18 case.

19 MR. KEAHON: I'm going to ask for a
20 continuance.

21 MR. PEARL: This is a straight
22 forward direct examination. The witness
23 takes the stand and if I can lay the proper
24 foundation that she is familiar with his
25 voice, it is cross-examination like a typical

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2 witness. Where is the prejudice?

3 THE COURT: You won't get the
4 continuance, Mr. Keahon. What you'll get is
5 longer cross-examination, we'll have longer
6 direct on this person, to what effort.

7 If we lose the jury, we lose the
8 jury. If we don't lose the jury, then my
9 fears are groundless.

10 MR. KEAHON: Judge, we're at that
11 point where I believe there is going to be an
12 offer from that book that she looked at.

13 MR. PEARL: Just what was
14 identified.

15 MR. KEAHON: I got here at ten to
16 two, to review it. We have been busy ever
17 since, and the exhibits didn't get here until
18 2:15.

19 THE COURT: You haven't crossed her
20 on the preliminary hearing yet.

21 MR. KEAHON: I understand. But
22 they will finish Det. Gabriele and --

23 MR. PEARL: I'll offer them subject
24 to connection.

25 THE COURT: I'll leave it marked

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2 i.d. subject to her testifying, again, under
3 cross-examination, and I'll rule on its
4 admissibility, as far as the box with the
5 known as and the unknowns, you mean?

6 MR. PEARL: Yes.

7 THE COURT: All right.

8 MR. KEAHON: I found some more
9 things. I don't know if they were redacted,
10 or not.

11 THE COURT: They haven't been shown
12 to the jury.

13 MR. PEARL: I redacted all the
14 E-Loan stuff yesterday, last night.

15 THE COURT: All right. Thank you
16 again.

17 (The following occurred in open
18 court):

19 THE COURT: Is there anything else
20 to place on the record before bringing in the
21 jury?

22 MR. KEAHON: No, your Honor

23 THE COURT: The jury's presence is
24 requested, please.

25 THE COURT OFFICER: Jury entering.

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2 (The following occurred with the
3 jury present)

4 THE COURT: Thank you. Please be
5 seated. Please be seated everyone.

6 THE CLERK: Case on trial, People
7 versus Whitehead. The jury and all parties
8 are present. Counsel waives the roll.

9 THE COURT: Thank you. Thank you,
10 once again.

11 We'll continue with Det. Gabriele's
12 testimony, please.

13 THE COURT OFFICER: He's not
14 outside.

15 THE COURT: If you would inquire,
16 thank you.

17 THE CLERK: He's on his way.

18 THE COURT: My apologies.

19 While we're waiting for a witness
20 to resume the seat on the stand. I have been
21 informed by the sergeant there is difficulty
22 with staying after five on two of the days.
23 We'll be able to accommodate you in that
24 regard. On Friday I'm sorry for the loss that
25 someone has suffered and we'll be able to

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2 accommodate you in that regard.

3 Because of the expected length of
4 the trial and you, yourself, have seen some
5 delays, I have to admonish you you can't
6 speculate on any reason for the delays nor
7 hold it against either party. But it looks at
8 this time like the trial will go into next
9 week.

10 Because of that, I realize you were
11 told the matter would end on the 20th. This
12 may create an insurmountable burden for you,
13 because of vacation plans or your work
14 obligations. So that is something we need to
15 know about now. I know all the time that you
16 have invested in this trial, this is one of
17 the reasons why we have alternates, as well,
18 is because sometimes unexpected things occur
19 during a trial, in addition to things like we
20 stated before, someone not showing up. You
21 all have been so dutiful, so diligent, and
22 attentive. But again, you have sacrificed now
23 seven weeks out of your life. It looks like
24 it will go beyond that. There is a limit to
25 how much we could ask of you. So if there are

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2 difficulties, I'm not asking anybody to
3 respond at this point in time. I don't want
4 to embarrass anyone or make anyone feel
5 uncomfortable. When you get a moment, speak
6 to one of the court officers and we'll discuss
7 it with the attorneys one on one.

8 A JUROR: Do you think it will be
9 longer than next week?

10 THE COURT: No, we have been trying
11 to get it finished this week.

12 Especially since we were not able
13 to go late in the evening, and then
14 having -- because of Friday, as well, that we
15 would be going into the following week, say,
16 but not later than that, because that would
17 give us Tuesday. Tuesday -- Wednesday and
18 Thursday, that would give us more than enough
19 time, especially if we would be able to begin
20 at eleven and then work as late as it takes
21 the following day.

22 Sir, you had a question?

23 A JUROR: I think you just answered
24 it.

25 I was going to ask as best you

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2 guess.

3 THE COURT: I realize.

4 A JUROR: Are you talking about --
5 going to the jury sometime next week or
6 sometime beyond that?

7 THE COURT: No, not beyond next
8 week.

9 I think we can be confident in that
10 regard.

11 MR. PEARL: Yes.

12 MR. KEAHON: Yes, judge.

13 THE COURT: Consider it. I don't
14 ask for your comments now. I don't want to
15 make anyone uncomfortable. Consider it. Talk
16 about it with your families, your employers,
17 and let us know. Thank you all, very much,
18 once again.

19 THE CLERK: Detective, I remind
20 you, you're still testifying under oath.

21 THE COURT: You may continue your
22 inquiry.

23 MR. PEARL: Thank you.

24 THE COURT OFFICER: May I have
25 152-A and 177? May I have 152-A shown to Det.

1 DIRECT/Gabriele

2 Gabriele and may I use the presenter?

3 THE COURT: Yes.

4 THE COURT OFFICER: The witness is
5 being shown 152-A in evidence.

6 THE COURT: Thank you, officer.

7 CONTINUED DIRECT EXAMINATION

8 BY MR. PEARL:

9 Q. Detective, I think we left off on the
10 Wojcieh Wachnik, Sprint cell phone, in evidence as
11 People's 49. There was an electronic serial number
12 associated with that account?

13 A. Correct.

14 Q. What is the number?

15 A. 75CD623B.

16 Q. You have in your hand what is 152-A,
17 correct?

18 A. Yes, I do.

19 Q. And what is 152-A?

20 A. 152-A, is a Sprint cell phone that was
21 recovered from 92 Howland Avenue in Teaneck, New
22 Jersey on 1/27/06.

23 Q. From where at that location was the cell
24 phone recovered?

25 A. From the ledge of the bay window near the

1 DIRECT/Gabriele

2 front of the home.

3 Q. Hold the phone up and tell the jury what
4 type of cell phone that is?

5 A. It is a Sprint phone.

6 Q. Did you have an opportunity to determine
7 whether or not that cell phone had an electronic
8 serial number?

9 A. Yes, I did.

10 Q. Where if anywhere was that electronic
11 serial number?

12 A. When you take the battery back off the
13 back of the phone, it's on the back of the phone.

14 Q. Can you do that now?

15 A. (Witness complies)

16 Q. Can you hold that up and tell the jury if
17 you see an electronic serial number on that phone?

18 A. Right above the bar code on the bottom of
19 the phone.

20 Q. Can you read what that electronic serial
21 number on that print cell phone, found in defendant's
22 house, is?

23 A. 75CD623B.

24 Q. Okay.

25 MR. PEARL: May I have People's

1 DIRECT/Gabriele

2 152-A and the lights out, again, please?

3 Q. Detective, can you see the electronic
4 serial number, it says "ESNHDX", is that correct?

5 A. Correct.

6 Q. Is that where the number is that you were
7 reading from?

8 A. Yes, it is.

9 Q. From where was this phone recovered?

10 A. The phone was recovered from 92 Howland
11 Avenue, in Teaneck, New Jersey, on 1/27/06.

12 Q. Thank you.

13 MR. PEARL: Judge, can I have
14 People's 153? Through, one "A" through "FF".

15 For the record, I don't believe I
16 moved these exhibits into evidence?

17 THE CLERK: Which one?

18 THE COURT: 153-A through FF.

19 THE CLERK: None of 153 went into
20 evidence at this point.

21 MR. PEARL: Judge, can I have those
22 shown to Det. Gabriele.

23 THE COURT: Yes.

24 (Hanging)

25 Q. Detective, 153 -- take a look at those

1 DIRECT/Gabriele

2 documents contained within that binder, 153-AA
3 through 153-FF?

4 A. Yes, these are all documents recovered
5 from the home, 92 Howland Avenue, Teaneck, New
6 Jersey.

7 Q. Are they all in the same or substantially
8 the same condition as they were when you recovered
9 them on January 27, 2006?

10 A. Yes, they are.

11 MR. PEARL: Now may I have
12 People's, your Honor, 154 through 173, I
13 believe. 176-A and B, I'm sorry. As well as
14 86.

15 Q. Detective, take a look at all those
16 exhibits. After you've done that, please look up?

17 Detective, do you recognize those
18 exhibits?

19 A. Yes, I do.

20 Q. What if anything do you recognize those
21 exhibits to be?

22 A. Paperwork I recovered from 92 Howland
23 Avenue, Teaneck, New Jersey, and the fax cover page.

24 Q. Generally, what is it? Don't -- where
25 did you recover that from?

1 DIRECT/Gabriele

2 A. This particular item I recovered from the
3 vehicle on 1/25/06.

4 Q. That is People's 86?

5 A. Yes, it is.

6 Q. Finally, People's 179.

7 A. This was from the house at 92 Howland
8 Avenue, in Teaneck, New Jersey.

9 Q. All those items, with the exception of
10 People's 86, are they in the same or substantially
11 the same condition as they were when you seized them
12 from the house at 92 Howland Avenue?

13 A. Yes, it is.

14 Q. Is People's 86 in the same or
15 substantially the same condition as when you seized
16 it from the vehicle on January 25th, 2006?

17 A. Yes, it is.

18 MR. PEARL: Your Honor, People now
19 move all those exhibits into evidence.
20 Obviously, subject to the court's previous
21 ruling.

22 THE COURT: Thank you. Officer, if
23 you can show them to Mr. Keahon, please.

24 (Hanging)

25 MR. KEAHON: Could we approach,

1 DIRECT/Gabriele

2 please, judge.

3 THE COURT: Yes, counsel.

4 (The following occurred at side
5 bar):

6 MR. PEARL: 161 and 162 are not
7 offered.

8 MR. KEAHON: They are not.

9 Just this one document in this
10 book.

11 THE COURT: I already ruled on 161
12 and 162, the objection was sustained in our
13 conference the other day, and they'll not be
14 admitted into evidence.

15 MR. PEARL: Do you want to take
16 them out of the book so there is no confusion.

17 THE CLERK: I ask it be kept in
18 when we know -- log it in at the end of the
19 day. We know it is in order.

20 MR. PEARL: Can we take it out so
21 we don't show it to the detective.

22 MR. KEAHON: Everything else is in.

23 THE CLERK: Everything from 154 to
24 176-BB, except for 161 and 162.

25 MR. PEARL: People's 167, is

1 DIRECT/Gabriele

2 that --

3 MR. KEAHON: I just want to be
4 careful on this one.

5 THE COURT: The redacted ones, if
6 you just double check that they can't be read
7 through the presenter.

8 MS. FRANZESE: That one I redacted
9 and Xeroxed. Yes, this one.

10 We'll need a sticker on this one.

11 MR. KEAHON: 179, is fine, your
12 Honor.

13 86, is fine. And.

14 Whatever is in this book -- is
15 fine.

16 THE COURT: Thank you.

17 MR. KEAHON: Can I approach, judge,
18 please.

19 THE COURT: Yes, counsel.

20 (The following occurred at side
21 bar):

22 THE COURT: Technically violates
23 the double hearsay rule. In light of the
24 esteem you're held by the court, Mr. Keahon,
25 I'll allow you latitude in this regard.

1 DIRECT/Gabriele

2 This is 153, correct?

3 MR. KEAHON: Yes.

4 THE COURT: I don't require to hear
5 you as to your objection at this point in
6 time. I'll leave them for identification.

7 MR. KEAHON: Okay.

8 THE COURT: We'll wait until they
9 are offered. Subject to the next witness,
10 rather than put them in, subject to
11 connection, leave them marked for
12 identification.

13 MR. KEAHON: Sure.

14 THE COURT: Let them lay the
15 foundation through Ms. Fortune.

16 All right.

17 (The following occurred in open
18 court):

19 THE COURT: 153-A through FF will
20 remain marked for identification with the
21 exceptions noted.

22 The remaining exhibits will be
23 admitted into evidence.

24 THE COURT OFFICER: 86 is now in
25 evidence.

1 DIRECT/Gabriele

2 THE COURT: Correct.

3 THE COURT OFFICER: And 179
4 previously marked for i.d. is in evidence.

5 THE COURT: Yes.

6 MR. PEARL: Also my understanding,
7 judge, is People's 154 through 176-A and B,
8 with the exclusion of 161 and 162, are all
9 admitted into evidence at this time.

10 THE COURT: That is correct.

11 THE COURT OFFICER: They were
12 previously marked.

13 THE COURT: Thank you.

14 MR. PEARL: Can I continue now?

15 THE COURT: Yes.

16 MR. PEARL: Judge, may I use the
17 presenter so I can publish those exhibits to
18 the jury.

19 THE COURT: Yes.

20 MR. PEARL: Thank you. At your
21 convenience, officer, if you could turn off
22 the lights.

23 MR. PEARL: If I could have those
24 exhibits, officer, please.

25 BY MR. PEARL:

1 DIRECT/Gabriele

2 Q. Detective, I'm showing you what is in
3 evidence as People's 86.

4 Specifically, what is 86?

5 A. It is a fax cover sheet.

6 Q. From where did you recover this fax cover
7 sheet?

8 A. From the maroon Range Rover, on 1/25/06.

9 Q. You recognize that, how?

10 A. My initials and date are on the bottom.

11 Q. Date of 1/25/06?

12 A. Correct.

13 Q. And this is a faxed cover sheet addressed
14 to whom?

15 A. Mr. Whitehead.

16 Q. Now, did there come a time when you
17 examined the back of this fax cover sheet?

18 A. Yes.

19 Q. And did you recognize any of the writing
20 on the back of this document?

21 A. Yes, I did.

22 Q. What if anything did you recognize on the
23 back of this document?

24 MR. KEAHON: I'm going to object.

25 I'd like to approach.

1 DIRECT/Gabriele

2 THE COURT: Side bar, counsel.

3 (The following occurred at side
4 bar):

5 THE COURT: What do you anticipate
6 the witness' answer to be?

7 MR. PEARL: Pursuant to the user
8 name and password, of the Dealer Track.

9 THE COURT: Similar to?

10 MR. PEARL: Right, because there
11 was a phonetic spelling.

12 THE COURT: All right.

13 MR. KEAHON: I'd like to be heard.

14 THE COURT: Your objection is
15 sustained. That is for the jury to draw that
16 similarity. Thank you.

17 (The following occurred in open
18 court):

19 BY MR. PEARL:

20 Q. Detective, I want to show you what is now
21 in evidence as People's 109. Do you recognize this
22 document?

23 A. If I could take a look at it.

24 Q. Do you recognize your initials on this
25 document?

1 DIRECT/Gabriele

2 A. Yes, I do.

3 Q. Are those in fact your initials?

4 A. Yes, they are.

5 Q. When did you place your initials on this
6 document?

7 A. January 27, 2006.

8 Q. From where was -- this is an exact
9 reproduction of the original document?

10 A. From what I can look at, yes, it is.

11 Q. From where did you recover the original
12 document?

13 A. 92 Howland Avenue, Teaneck, New Jersey.

14 Q. What if anything was the significance of
15 this item?

16 A. Written on the piece of paper, there is
17 the name of Anita Bryant.

18 Q. Who if anyone is Anita Bryant?

19 A. Anita Bryant is a co-defendant in this
20 particular case.

21 Q. I'm now showing you what is in evidence as
22 People's 154. Do you recognize this item?

23 A. Yes, I do.

24 Q. What if anything do you recognize this to
25 be?

1 DIRECT/Gabriele

2 A. It is a towing receipt for a vehicle that
3 was seized from the home at 92 Howland Avenue,
4 Teaneck, New Jersey.

5 Q. In whose name is this towing receipt?

6 A. Lamor Whitehead.

7 Q. What is the -- date of the towing receipt?

8 A. 7/27/05.

9 Q. What was the make and year of the vehicle?

10 A. 2004 Range Rover.

11 Q. Do you see the license number?

12 A. Yes.

13 Q. What if anything does it say there?

14 A. DCN7725.

15 Q. I'd like to show you what is in evidence
16 as People's 155? Do you recognize this exhibit?

17 A. Yes, it is a service contract from
18 Manhattan Ford Lincoln Mercury, for repairs done on a
19 vehicle.

20 Q. What is the date of the invoice?

21 A. 7/29/05.

22 Q. From where did you recover this item?

23 A. From the home at 92 Howland Avenue,
24 Teaneck, New Jersey.

25 Q. In whose name is this invoice?

1 DIRECT/Gabriele

2 A. Lamar Whitehead.

3 Q. What is the address?

4 A. 1305 Park Place, Brooklyn, New York.

5 Q. Do you see a phone number listed?

6 A. Yes.

7 Q. Can you read that phone number into the
8 record, please?

9 A. (718)772-6498.

10 Q. What if anything is the significance of
11 that number?

12 A. That is the defendant's personal cell
13 phone number.

14 Q. What is the year, make, and model of the
15 vehicle in this service agreement?

16 A. It is a 2004 Land Rover, Range Rover,
17 four-door utility.

18 Q. And do you see the vehicle identification
19 number?

20 A. Yes.

21 Q. What is the vehicle identification number
22 of the vehicle that was serviced?

23 A. SALMF11454A142490.

24 Q. What if anything is the significance of
25 that?

1 DIRECT/Gabriele

2 A. That particular?

3 Q. That VIN?

4 A. That particular VIN, is the same VIN that
5 was on the vehicle the defendant was driving, on
6 1/25/06.

7 Q. Those are -- those are the same as the
8 photographs 96 through 106?

9 A. Correct, yes, they are.

10 Q. Showing you what is in evidence as
11 People's 156? What if anything is this?

12 A. That is a picture of the defendant.

13 Q. From where was it recovered?

14 A. From 92 Howland Avenue Teaneck, New
15 Jersey.

16 Q. Detective, I'm showing you what's People's
17 157. Do you recognize People's 157?

18 A. Yes, it is a checkbook recovered from 92
19 Howland Avenue, Teaneck, New Jersey.

20 Q. Where at 92 Howland was this checkbook
21 recovered?

22 A. It was recovered in the bags that were in
23 the hallway closet.

24 Q. Detective, directing you --

25 MR. PEARL: Can I have this marked

1 DIRECT/Gabriele

2 as 157-A?

3 THE COURT: Mark it 157-A for
4 identification, please.

5 (People's Exhibit 157-A, marked for
6 identification)

7 Q. Detective, specifically, do you recognize
8 People's 157-A?

9 THE COURT OFFICER: 157-A has been
10 marked for i.d. only.

11 A. Yes, this was one of the checks from the
12 checkbook.

13 MR. PEARL: Your Honor.

14 Q. Is that in the same or substantially the
15 same condition as when you recovered it from 92
16 Howland Avenue?

17 A. Yes, it is.

18 MR. PEARL: At this time, people
19 move People's 157-A into evidence.

20 THE COURT: Officer, if you would
21 show that to Mr. Keahon, please. Thank you.

22 (Hanging)

23 MR. KEAHON: I have no objection.

24 THE COURT: Thank you. That will
25 be marked into evidence as 157-A.

1 DIRECT/Gabriele

2 THE COURT OFFICER: So marked.

3 MR. PEARL: Thank you.

4 May I have that exhibit when you're

5 ready, officer?

6 BY MR. PEARL:

7 Q. Detective, what if anything is People's
8 157-A?

9 A. It's a check written out to cable.

10 Q. Whose caption is on this check?

11 A. Lamor Whitehead, of 1155 Will Mohr Street,
12 Apt. 2R, in Brooklyn, New York.

13 Q. Let's take a look at People's 158. What
14 if anything do you recognize People's 158 to be?

15 A. It's a Direct TV bill.

16 Q. In whose name is this Direct TV bill?

17 A. Lamor Whitehead, 92 Howland Avenue,
18 Teaneck, New Jersey.

19 Q. From where was that Direct TV bill
20 recovered, if you recall?

21 A. That Direct TV bill was recovered from the
22 hallway closet, 92 Howland Avenue, Teaneck, New
23 Jersey.

24 Q. Showing you what is in evidence as
25 People's 159. What if anything is this? And where

1 DIRECT/Gabriele

2 was it recovered?

3 A. It was recovered out of the hallway
4 closet, 92 Howland Avenue, Teaneck, New Jersey. It
5 is two identification cards and two credit cards in
6 the name of the defendant, Lamor Whitehead.

7 Q. The first identification is from where?

8 A. New Jersey.

9 Q. Do you recognize that second
10 identification card?

11 A. Yes, it is a New Mexico driver's license.

12 Q. There were photocopies, you indicated, of
13 two credit cards?

14 A. Yes.

15 Q. One being American Express and one being
16 Chase?

17 A. Yes.

18 Q. Both being in the name of Lamor Whitehead?

19 A. Yes.

20 Q. I'm showing you what is in evidence as
21 People's 160. What if anything is this?

22 Q. PSEG gas bill?

23 Q. This was recovered from where?

24 A. The home, 92 Howland Avenue, in Teaneck,
25 New Jersey.

1 DIRECT/Gabriele

2 Q. In whose name is this gas bill?

3 A. Lamor Whitehead, 92 Howland Avenue,
4 Teaneck, New Jersey.

5 Q. Take a look at People's 163 in evidence.
6 Do you recognize this exhibit?

7 A. It's a picture of the home of 92 Howland
8 Avenue, Teaneck, New Jersey.

9 Q. From where was this item recovered?

10 A. From 92 Howland Avenue, Teaneck, New
11 Jersey.

12 Q. And what if anything specifically is this
13 exhibit?

14 A. If I could look at it? I can't...

15 (Handing)

16 THE COURT OFFICER: The witness is
17 being shown 163 in evidence.

18 THE COURT: Thank you, officer.

19 A. It appears it's a customer report for the
20 house, with the description of the house and the
21 price of the house.

22 Q. And the house address is what?

23 A. 92 Howland Avenue, Teaneck, New Jersey.

24 MR. PEARL: Thank you.

25 Q. I'm showing you what is in evidence as

1 DIRECT/Gabriele

2 People's 164.

3 MR. PEARL: Officer, could I get,
4 when you have a chance, People's 24 and 45.

5 Q. Do you recognize this next exhibit?

6 A. It's a Nextel bill.

7 Q. In whose name is this Nextel bill?

8 A. Lamor M. Whitehead.

9 Q. Do you see the account number?

10 A. Yes, I do.

11 Q. And what is the account number?

12 A. If I could look at the document, it's a
13 little blurry.

14 MR. PEARL: I'm sorry.

15 THE COURT OFFICER: The witness is
16 being shown 164 in evidence.

17 A. The account number is 775957529.

18 Q. And what if anything is the significance
19 of that account number?

20 A. That is the account number of the
21 defendant's personal cell phone.

22 MR. PEARL: Thank you.

23 Q. I'll show you next what is in evidence as
24 People's 65. Do you see that?

25 A. --

1 DIRECT/Gabriele

2 Q. Do you recognize's People's 165?

3 A. Yes, I do.

4 Q. What if anything do you recognize People's
5 165 to be?

6 A. It's an invoice for the cutting room.

7 Q. In whose name is this invoice?

8 A. Lamor Miller.

9 Q. What if anything does it say under the
10 client name of Lamor Miller?

11 A. It says LaLa Records 123-99 Flatlands
12 Avenue, Brooklyn, New York.

13 Q. Detective, what if anything is the
14 significance of that address, 123-99 Flatlands
15 Avenue, Brooklyn, New York?

16 A. That address appears on the Gloria Conaty
17 Capital One and E-Loan fraud cases.

18 MR. PEARL: Your Honor, at this
19 time I'm showing Det. Gabriele what is in
20 evidence as People's 24.

21 Q. Detective, this is a Capital One
22 application in the name of Gloria Conaty. Do you see
23 the address provided by the person using the name of
24 Gloria Conaty?

25 A. Yes, I do.

1 DIRECT/Gabriele

2 Q. What if anything was the address provided
3 on that Capital One application?

4 A. 123-99 Flatlands Avenue, Suite 2,
5 Brooklyn, New York.

6 Q. I'm also showing you what is in evidence
7 as People's 45. This is an E-Loan application in the
8 name of Gloria Conaty.

9 I'm directing you to Page 2 of this
10 document. What if anything is the address provided
11 on the E-Loan application in the name of Gloria
12 Conaty?

13 A. 123-99 Flatlands Avenue, Brooklyn, New
14 York.

15 Q. The name Lamar Miller, are you familiar
16 with that name?

17 A. Yes, I am.

18 Q. And who if anyone is Lamar Miller or Lamor
19 Miller?

20 A. That's another name used by the defendant.

21 Q. I'm showing you what is in evidence as
22 People's 166. Do you recognize People's 166?

23 A. Yes, I do.

24 Q. What if anything is People's 166?

25 A. It is a BJ's Wholesale Club membership

1 DIRECT/Gabriele

2 card in the name of Desmond DeFreitas.

3 Q. From where was this card recovered?

4 A. 92 Howland Avenue, in Teaneck, New Jersey.

5 Q. Specifically where at that location?

6 A. That again was in the closet, in the bags,
7 in the hallway closet.

8 Q. And who if anyone is Desmond DeFreitas?

9 A. Desmond DeFreitas is a New York City
10 firefighter, who is the brother of Mr. Nigel
11 DeFreitas.

12 Q. I show you what is in evidence as People's
13 167. Do you recognize this exhibit?

14 A. Yes, I do.

15 Q. And what if anything is this exhibit?

16 A. If I could look at it. It's a little
17 blurry on the screen.

18 Q. Detective, before you look at that
19 exhibit, there are redacted or blackened-out
20 sections, correct?

21 A. Correct.

22 Q. But for those redacted or blacked-out
23 sections, is it in the same or substantially the same
24 condition as when you recovered it from the location?

25 A. Yes, it's a reproduction. It's a copy.

1 DIRECT/Gabriele

2 Yes, it's in the same condition.

3 Q. Detective, what if anything do you
4 recognize People's 167 to be?

5 A. It's a subscriber agreement in the name.

6 Q. There is a name on it?

7 A. Yes.

8 Q. Lamar Whitehead?

9 A. Yes, there is.

10 Q. What if any address was provided by Lamar
11 Whitehead on that subscriber agreement?

12 A. 905 Cleveland Street, Brooklyn, New York.

13 Q. Can I have that back, please.

14 (Handing)

15 Q. What is the significance of 905 Cleveland
16 Street, Brooklyn, New York?

17 A. That is the home of Nigel DeFreitas, 905
18 Cleveland Street.

19 Q. Showing you what is in evidence as
20 People's 168. Do you recognize this exhibit?

21 A. Yes, I do.

22 Q. What if anything do you recognize this
23 exhibit to be?

24 A. It's a retail sales contract in the name
25 of Lamor Whitehead.

1 DIRECT/Gabriele

2 Q. Where did you recover this exhibit?

3 A. 92 Howland Avenue, Teaneck, New Jersey.

4 Q. It indicates it's a purchase agreement
5 under the name of what?

6 A. Lamor Whitehead.

7 Q. Whose address is?

8 A. 1305 Park Place, Brooklyn, New York.

9 Q. And what is the property address as part
10 of this real estate contract, contract of sale?

11 A. 92 Howland Avenue, Teaneck, New Jersey.

12 Q. In what county?

13 A. Bergen County.

14 Q. Where is that located?

15 A. New Jersey.

16 Q. Detective, let me show you 169, directly.
17 Once again, that document contains blackened out,
18 redacted portions?

19 A. Correct.

20 Q. With the exception of those blackened out,
21 or redacted portions, is it an exact reproduction of
22 the document you recovered from the house at 92
23 Howland Avenue?

24 A. Yes, it is.

25 Q. And is there a name and address listed on

1 DIRECT/Gabriele

2 that -- document?

3 A. Yes, there is.

4 Q. Is the name Lamar Whitehead on that
5 document?

6 A. No.

7 Q. Is the name Lamar Miller on that document?

8 A. Yes.

9 Q. Is there an address associated with that?

10 A. Yes, there is.

11 Q. What if anything is the address listed for
12 Lamar Miller?

13 A. 31 Fleet Walk, Apartment 4F, Brooklyn, New
14 York.

15 MR. PEARL: Thank you.

16 Can I have that back, please?

17 (Handing)

18 Q. In fact, this document actually says
19 "Brooklyn", correct?

20 A. Correct.

21 Q. The "B" is missing?

22 A. Yes.

23 Q. But the word "Brooklyn" is listed on the
24 top of the document?

25 A. That is correct.

1 DIRECT/Gabriele

2 Q. What if anything is the significance of 31
3 Fleet Walk Avenue, Brooklyn, New York?

4 A. 31 Fleet Walk, Apartment 4F, New York is
5 the address of Mr. Kylie Copeland.

6 Q. That is the address provided by Mr.
7 Copeland?

8 A. Correct. Correct.

9 Q. I'm showing you what is in evidence as
10 People's 170. What if anything is People's 170?

11 A. It's a picture of a woman, with the name
12 on the top.

13 Q. Can you read that name from there?

14 A. I can't read the whole name because it's a
15 little blurry.

16 MR. PEARL: To speed things up.

17 Q. Mary Whitehead, does that refresh --

18 A. That is correct, yes.

19 Q. Where if anywhere was this document
20 recovered from?

21 A. The hallway closet, 92 Howland Avenue,
22 Teaneck, New Jersey.

23 MR. KEAHON: What number is that,
24 please.

25 MR. PEARL: 170.

1 DIRECT/Gabriele

2 Q. Detective, I'm showing you what is in
3 evidence as People's 171. Do you recognize this
4 exhibit?

5 A. Yes, I do.

6 Q. Are your initials on this exhibit?

7 A. Yes, they are.

8 Q. And the date is 1/27/06?

9 A. Correct.

10 Q. From where if anywhere did you recover
11 this item?

12 A. 92 Howland Avenue, Teaneck, New Jersey.

13 Q. From where, specifically?

14 A. The hallway closet.

15 Q. What if anything is listed on this
16 exhibit?

17 A. The name of David Ridenour, with the
18 address of 385 Lexington Avenue, Suite 4B, Brooklyn,
19 New York.

20 Q. What if anything is the significance of
21 the name David Ridenour?

22 A. David Ridenour was an individual who was
23 involved in the David Ridenour Maria Macarle fraud
24 case.

25 Q. Without pulling out the exhibit, there was

1 DIRECT/Gabriele

2 a Capital One application in the name of David
3 Ridenour?

4 A. Correct.

5 Q. That address, 385 Lexington Avenue,
6 Brooklyn, New York, Suite 4B, what is the
7 significance of that address?

8 A. That is the home address of Teisha Lamont.

9 Q. During the course of your investigation,
10 you indicated you analyzed the defendant's phone
11 records?

12 A. Correct.

13 Q. Were you able to determine if defendant
14 had any ties to that address of 385 Lexington Avenue
15 through those phone records?

16 A. Yes, I did.

17 Q. What if anything were you able to
18 determine?

19 A. There were numerous calls from the
20 defendant's personal cell phone, to the home phone of
21 Teisha Lamont, (718)230-4369.

22 Q. Additionally, you indicated that there
23 were phone calls made during the transportation of
24 the defendant from Riverside Drive to Selden, New
25 York?

1 DIRECT/Gabriele

2 A. That is correct.

3 Q. And what if anything was -- one of those
4 phone calls?

5 A. One of those phone calls to the phone
6 number (718)230-4369.

7 Q. Whose number is that?

8 A. That is Teisha Lamont's number at 385
9 Lexington Avenue, Apartment 4B, in Brooklyn, New
10 York.

11 Q. Detective, I'm showing you what is in
12 evidence -- it's hard to read this number, 172? Do
13 you recognize this exhibit?

14 A. Yes, I do.

15 Q. What if anything do you recognize People's
16 172 to be?

17 A. It's a business card that I seized from 92
18 Howland Avenue, Teaneck, New Jersey.

19 Q. Your initials, date and shield number are
20 on this exhibit?

21 A. Correct.

22 Q. Right there, at the bottom?

23 A. Yes.

24 Q. And you have had an opportunity to examine
25 the back of this exhibit?

1 DIRECT/Gabriele

2 A. Yes.

3 Q. And initially, under those series of
4 numbers, there is a phone number. What is after that
5 phone number?

6 A. E-Loan, with a P.O. Box 254948.

7 Q. Now, above that, there is -- a series of
8 letters and numbers. Can you read those into the
9 record, please?

10 A. WBAGL6342DP51429.

11 Q. Detective, did you have an opportunity to
12 research or examine that number on that -- on the
13 back of that card recovered from the defendant's
14 house?

15 A. Yes, I did.

16 Q. What if anything did you -- what if
17 anything is the significance of that number?

18 A. It appears to be a VIN.

19 Q. When you say "appears", why do you use the
20 word "appears"?

21 A. Through the investigation, we found that a
22 VIN on one of the fraud cases, was the same number as
23 on the back of that card, with the exception of one
24 number missing off the back of that business card.

25 Q. Do you recall which fraud investigation

1 DIRECT/Gabriele

2 that was?

3 A. I believe it was the Joseph Sweeney E-Loan
4 case.

5 Q. I'm showing you what is in evidence as
6 People's 40. The Joseph Sweeney E-Loan application,
7 applied for on 10/13 /04, do you see the bottom of
8 this application?

9 A. Yes, I do.

10 Q. What if anything do you see at the bottom
11 of the application, that is highlighted?

12 A. VIN.

13 Q. It says 2002 BMW 745, I guess?

14 A. Yes.

15 Q. I'm now placing on the presenter People's
16 172? In fact, are those numbers similar.

17 A. Yes, they are.

18 Q. Are those two numbers different?

19 A. The VIN on the document from E-Loan, there
20 is a one between the four and the two. Approximately
21 halfway through the VIN.

22 On the business card seized from 92
23 Howland Avenue, Teaneck, New Jersey, the one does not
24 appear between the four and two.

25 Q. But for that difference, they are exactly

1 DIRECT/Gabriele

2 the same number?

3 A. Yes, they are.

4 Q. And the VIN on People's 40 is actually
5 part of an E-Loan application, correct?

6 A. That is correct.

7 Q. And E-Loan is listed on the card of 172,
8 correct?

9 A. Yes, it is.

10 Q. Detective, let me show you what is in
11 evidence, as People's 173. That is the back -- that
12 is an exact reproduction of the back of a business
13 card, correct?

14 A. Yes, it is.

15 Q. From where was that business card located?

16 A. 92 Howland Avenue, Teaneck, New Jersey.

17 Q. Okay. But for being a photocopy, it's an
18 exact reproduction of the back of that business card
19 found at that location?

20 A. Yes, it is.

21 Q. January 27th, 2006?

22 A. Yes, it is.

23 MR. PEARL: May I present that to
24 the jury, please?

25 THE COURT: Yes. Certainly,

1 DIRECT/Gabriele

2 counsel.

3 MR. PEARL: I'm showing you what is
4 in evidence as 173.

5 Q. Did you have an opportunity to examine the
6 numbers on the back of this exhibit?

7 A. Yes, I did.

8 Q. What if anything is listed on the back of
9 this exhibit?

10 A. The phone number (718) 670-3693.

11 Q. What is the significance of that phone
12 number (718) 670-3693?

13 A. That was one of the AeroBeep telephone
14 numbers.

15 Q. Were -- those, one of the numbers that you
16 described previously, by the blocks or John Willson
17 or Henry Black?

18 A. That is correct.

19 Q. Do you recall where if anywhere that phone
20 number appears on any of your investigations?

21 A. That particular phone number appears on
22 the Joseph Sweeney E-Loan case, and also on the
23 Wojcieh Sprint cell phone case. That particular
24 number, (718) 670-3693, appears as the home number
25 listed on the Sprint cell phone case of Wojcieh

1 DIRECT/Gabriele

2 Wachnik.

3 Q. I'm showing you what is in evidence as
4 People's 49. This is the Sprint cell phone records
5 in the name of Wojcieh Wachnik?

6 A. Yes.

7 Q. It has an address 385 Lexington Avenue,
8 Apt 4B, Brooklyn, New York?

9 A. Yes, it does.

10 Q. At the bottom, the phone number listed on
11 People's 49, as home number?

12 A. (718)670-3693.

13 Q. Detective, I'm showing you what's in
14 evidence as People's 41, a Wojcieh Wachnik loan
15 application on 10/28/04. Under the name Wojcieh
16 Wachnik. Do you see there is a Social Security
17 number listed?

18 A. Yes.

19 Q. What is that Social Security number?

20 A. 11-282-6240.

21 Q. I'm showing you the back of People's 173,
22 the back of that card. Were you able to identify any
23 other numbers on the back of that business card,
24 found in the defendant's house?

25 A. Yes, I did.

1 DIRECT/Gabriele

2 Q. What if anything did you locate on the
3 back of that card?

4 A. On the third line down, from the top?
5 Right in from 718, you see the numbers 112, 82, 6240.

6 Q. What if anything is the significance of
7 those nine numbers on that card found in the
8 defendant's house?

9 A. That is the Social Security number of Mr.
10 Wojcieh Wachnik.

11 MR. KEAHON: Judge, could we
12 approach one minute, please.

13 THE COURT: Yes.

14 (The following occurred at side
15 bar):

16 THE COURT: How much longer are you
17 going to be? The jury is getting restless.

18 MR. PEARL: Six exhibits and I'm
19 done.

20 THE COURT: When you're done with
21 your direct, he'll step off.

22 Georgia will go on.

23 MR. KEAHON: Two things, judge,
24 based upon what has happened this afternoon,
25 I'd ask this court to reconsider permitting in

1 DIRECT/Gabriele

2 Katherine Reid information, the evidence is
3 overwhelming. Why do we put this issue in
4 this case? For a reversal based on Molineux.

5 Every reversal I see at the
6 appellate division is Molineux.

7 THE COURT: I thank you for your
8 guidance, Mr. Keahon. But isn't the genie
9 already out of the bottle? Ms. Reid has
10 already testified.

11 MR. KEAHON: They haven't seen this
12 document. This is permitting -- putting in a
13 document that shows an alteration taking
14 place. She's not part of the case.

15 MR. PEARL: Her name is used in the
16 voicemails.

17 MR. KEAHON: I'm just -- I'm
18 raising it now.

19 THE COURT: I know.
20 You raised it in the past.

21 MR. KEAHON: And there is no need
22 for this. I say that, respectfully.

23 THE COURT: I understand. I did
24 show that it was evidence that the lack of
25 mistake and lack -- evidence of common scheme

1 DIRECT/Gabriele

2 or plan. We have in the indictment, scheme to
3 defraud, and this is in some ways a unique
4 item in that the material alteration itself
5 can be used to explain how the other frauds
6 physically occurred.

7 MR. KEAHON: There is no question,
8 respectfully, that identity has been
9 established, and a common ploy or scheme, with
10 what is in evidence right now. It has been
11 established. There is no question about it.

12 THE COURT: All right.

13 This is what I believe would be the
14 fourth argument that I have entertained --

15 MR. KEAHON: I know.

16 THE COURT: -- application on it.
17 For the reasons set forth, the prior
18 determination of the court, application to
19 preclude this evidence will be respectfully
20 denied.

21 MR. KEAHON: My exception is,
22 respectfully, noted.

23 When he's excused, could you charge
24 I haven't been cross-examining because he's on
25 the stand one more time? It's not like

1 DIRECT/Gabriele

2 I'm --

3 THE COURT: When we finish the
4 direct, I'll ask, I'll say Mr. Keahon, do you
5 wish to inquire at this time or at a later
6 time when the witness is called to the stand?
7 You can say you reserve your right to
8 cross-examine when he testifies.

9 MR. KEAHON: Sure, great.

10 THE COURT: Thank you.

11 (The following occurred in open
12 court):

13 MR. PEARL: Detective, we'll just
14 get to the last few exhibits.

15 THE COURT: You may proceed.

16 BY MR. PEARL:

17 Q. People's 174, what if anything is People's
18 174? Do you see 174?

19 A. It's a credit report.

20 Q. What do you recognize People's 174 to be?

21 A. A credit report in the name of Lamor
22 Whitehead.

23 Q. The Social Security number -- I'll hand it
24 up to you? It would be easier.

25 Do you recognize the Social Security

1 DIRECT/Gabriele

2 number (handing).

3 A. Yes, I do.

4 Q. Can you just read that Social Security
5 number into the record, please?

6 A. 122-62-3869.

7 Q. Thank you. Where was that found?

8 A. 92 Howland Avenue, Teaneck, New Jersey.

9 Q. Detective -- I'm showing you what is in
10 evidence as People's 175. Do you recognize this
11 exhibit?

12 A. Yes, I do.

13 Q. What do you recognize this exhibit to be?

14 A. It's a Connecticut identification card in
15 the name of Lamor Whitehead. With an address of 371
16 Main Street, Hartford, Connecticut.

17 Q. How is Hartford spelled on that
18 identification -- that purported identification from
19 Connecticut?

20 A. "H A R F O R D".

21 Q. And you have seen this before today,
22 correct?

23 A. Yes, I have.

24 Q. Is there a picture of a person depicted in
25 that identification?

1 DIRECT/Gabriele

2 A. Yes, there is.

3 Q. Who if anyone is depicted in that
4 identification of, purported i.d. ,from Connecticut?

5 A. The defendant, Lamor Whitehead.

6 Q. The address you indicated, 371 Main
7 Street, Harford, Connecticut.

8 What is the significance of that address?

9 A. That particular address, 371 Main Street,
10 in Hartford, Connecticut, is connected to the Nouri
11 Khabeih case.

12 Q. I'm showing you what is in evidence as
13 People's 22G. Do you recognize People's 22G?

14 A. Yes, I do.

15 Q. What if anything do you recognize 22G to
16 be?

17 A. It's a document, purchase document from
18 Massapequa Land Rover, in the name of Nouri Khabeih,
19 with an address of 371 Main Street, Hartford,
20 Connecticut.

21 Q. In fact, that is the same identification
22 contained on that purported identification from
23 Connecticut in the name of Lamar Whitehead?

24 A. Yes, the address is the same on both
25 documents with the exception of the "T" missing from

1 DIRECT/Gabriele

2 the Connecticut identification card.

3 Q. Specifically, where did you recover
4 People's 175?

5 A. That was recovered from the ledge that was
6 leading into the kitchen. I don't know how to
7 describe it exactly.

8 MR. PEARL: Judge, can I have 96
9 through 106?

10 THE: Yes, officer, show them to
11 counsel, please.

12 MR. PEARL: Officer, I got the
13 wrong photographs.

14 The small photographs. 133 through
15 150.

16 Q. I'm showing you what is in evidence as
17 People's 138, what if anything is that?

18 A. That is the Connecticut identification
19 card in the name of Lamar Whitehead.

20 Q. The one that you just identified as
21 People's 175?

22 A. Yes.

23 Q. Where was that identification card
24 recovered?

25 A. A ledge, a half wall that was leading into

1 DIRECT/Gabriele

2 the kitchen.

3 Q. I'm showing you 139. That is the location
4 you just described?

5 A. Yes.

6 MR. PEARL: Detective, I misled the
7 jury, I'm sorry. There are two exhibits.

8 Q. 179, that is in evidence. Do you
9 recognize this exhibit?

10 A. Yes. It's a Rent-A-Center agreement.

11 Q. In whose name is this agreement?

12 A. Lamor Whitehead.

13 Q. What is the address listed for Lamor
14 Whitehead?

15 A. 92 Howland Avenue, Teaneck, New Jersey.

16 Q. Finally, detective, I'm showing you what
17 is 176-A & B. Take a look at those exhibits,
18 detective, and tell the jury if you recognize those
19 exhibits?

20 A. Yes, I do.

21 Q. What if anything do you recognize
22 176-A -- from where if anywhere did you recover 176-A
23 and -B?

24 A. In the hallway closet, 92 Howland Avenue,
25 Teaneck, New Jersey.

1 DIRECT/Gabriele

2 Q. What if anything do you recognize 176-A
3 and 176-B to be?

4 A. Both of them are W-2 and earnings summary
5 forms. W-2 forms.

6 Q. Okay. And in whose name -- start with
7 176-A. In whose name is 176-A?

8 A. 176-A, the name printed on the paper, is a
9 Katherine Reid, 940 Prospect Place, Brooklyn, New
10 York.

11 Q. Is there anything of significance after
12 the name Katherine Reid?

13 A. Could you rephrase that? What are you
14 talking about what's --

15 Q. Is there any other names listed on that
16 document?

17 A. Yes, there are.

18 Q. Tell the jury what if any other
19 information is listed on that document?

20 A. The name of Lamor Whitehead, 1305 Park
21 Place, Brooklyn, New York, is taped over the name of
22 Katherine Reid of 940 Prospect Place, Brooklyn, New
23 York.

24 Q. Are there other areas of that document
25 that are taped over?

1 DIRECT/Gabriele

2 A. Yes, there are -- there are three other
3 locations on the document -- excuse me, four other
4 locations on the document that have pieces of paper
5 taped over them.

6 Q. 176-B, what if anything is 176-B?

7 A. 176-B is again, 2003 W-2 form in the name
8 of Lamor Whitehead.

9 MR. PEARL: May I have those
10 exhibits?

11 Q. Detective, I'm showing you what is 176-A
12 in evidence. You indicated the name -- first of all,
13 the condition that this document is in. Is it in the
14 same exact condition as when you recovered it from
15 the defendant's home, 1/27/06?

16 A. Yes, it is.

17 Q. Initially, you indicated there was a name
18 of Katherine Reid?

19 A. Yes, I did.

20 Q. And an employer name of Aeillo Eye Care?

21 A. Yes, there is.

22 Q. You indicated there was another name,
23 correct?

24 A. Yes.

25 Q. There's a piece of paper taped over,

1 DIRECT/Gabriele

2 Katherine Reid's name, and an address in the name of
3 Lamar Whitehead, 1305 Park Place, Brooklyn, New York.

4 And an employer address of SONY Music
5 Inc., 55 Madison Avenue, New York, New York?

6 A. That is correct.

7 Q. You also indicated there were other areas
8 that were cut over?

9 A. Yes.

10 Q. I'm showing you -- there is another area,
11 Lamor Whitehead, 1305 Park Place, Brooklyn, New York
12 11213?

13 A. Yes.

14 Q. There was information under that?

15 A. Yes, there was.

16 Q. Additionally, there is a Social Security
17 number listed on this document, correct?

18 A. Yes, there is.

19 Q. That Social Security number is
20 122-62-3869?

21 A. That is correct.

22 Q. Were you able to determine if there was a
23 Social Security number under that?

24 A. Yes, there was.

25 Q. A different Social Security number?

1 DIRECT/Gabriele

2 A. Yes, a different Social Security number
3 from the one on the presenter now.

4 Q. Det. Gabriele, what if anything is the
5 significance of the name Katherine Reid in this
6 specific investigation? Did it turn up anywhere else
7 in this specific investigation?

8 A. In our specific investigation?

9 Q. Yes.

10 A. No, it does not.

11 Q. Did you listen to the AeroBeep
12 investigation?

13 A. Excuse me, yes, it does. There is a voice
14 recording who indicates that -- the female name on
15 the tape is Katherine Reid.

16 Q. I'm showing you what is in evidence as
17 176-B.

18 What if anything is 176-B?

19 A. It appears to be a photocopy of the
20 previous document with all of the taped-over portions
21 indicated on the new document.

22 Q. Now, detective, during the course of your
23 investigation, were you able to determine if there
24 were any other documents that had information that
25 had been altered?

1 DIRECT/Gabriele

2 A. --

3 Q. I'm directing your attention specifically
4 to -- in reference to David Ridenour?

5 A. Yes.

6 Q. Can I have People's -- People's 28,
7 please?

8 Q. Detective, People's 28 in evidence, a
9 Con Edison bill contained within the David Ridenour
10 Capital One account. You previously testified you
11 recognize this Con Edison bill?

12 A. Yes, I did.

13 Q. And from where did you recognize this Con
14 Edison bill?

15 A. That Con Edison bill, in the name of David
16 Ridenour, with the address of 385 Lexington Avenue,
17 Apartment 4B, in Brooklyn, New York, matches exactly
18 to a Con Edison bill, that was recovered from the
19 defendant's vehicle on 1/25/06, with the exception of
20 the David Ridenour address and name on the top, which
21 was not on the top of the one recovered out of the
22 vehicle on 1/25/06.

23 Q. And the -- have you also seen this similar
24 bill with the name of Maria Macarle on it?

25 A. Yes.

1 DIRECT/Gabriele

2 MR. PEARL: Thank you, detective.

3 Your Honor, just for the record, I'm making
4 sure I moved in all my exhibits, including 86,
5 177, 109, and I have no further questions at
6 this time.

7 (People's Exhibits 86, 177, and
8 109, previously marked for identification,
9 received in evidence)

10 THE COURT: Thank you. You'll be
11 recalling this witness to the stand?

12 MR. PEARL: One final time, your
13 Honor.

14 THE COURT: Mr. Keahon, do you wish
15 to cross-examine at this time or reserve your
16 right to cross-examine the final time the
17 witness testifies?

18 MR. KEAHON: Judge, it was
19 discussed earlier, due to the number of times
20 this witness is testifying, I'll cross-examine
21 him when he's finished with his direct.

22 THE COURT: Thank you.

23 Thank you very much, detective.

24 You may stand down at this time.

25 I direct you not to discuss your

1 People v. Lamar Whitehead

2 testimony with anyone since you're being
3 recalled to the stand.

4 THE WITNESS: Yes, your Honor.

5 THE COURT: Thank you.

6 (The Witness is excused)

7 THE COURT: Ladies and gentlemen of
8 the jury, at this point in time you'll be
9 given a recess before the next witness is
10 called. Thank you very much, again, for your
11 kind attention. Do not form an opinion about
12 the case. Do not discuss the case or allow it
13 to be discussed. Do not listen or view
14 anything about the case. Please report any
15 inappropriate contacts. Thank you very much
16 once again.

17 (The Jury is excused)

18 THE COURT: Thank you. Would
19 counsel like to take a five minute recess
20 before Ms. Fortune is called to the stand?

21 MR. PEARL: Thank you, your Honor,
22 yes.

23 MR. KEAHON: Yes.

24 THE COURT: The court will take a
25 brief recess.

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2 (Brief recess)

3 MR. KEAHON: Judge, can we
4 approach.

5 THE COURT: Yes, certainly.

6 (Side bar discussion held off the
7 record)

8 THE COURT: Let's bring back the
9 jury.

10 THE COURT OFFICER: The jury is
11 entering.

12 (The following occurred with the
13 jury present)

14 THE COURT: Thank you, please be
15 seated.

16 THE CLERK: Case on trial, People
17 versus Whitehead. All parties present. The
18 jury is present. Counsel waive the roll.

19 THE COURT: Ladies and gentlemen,
20 other aspects of this proceedings in this case
21 will take up the remainder of the afternoon.
22 Rather than detain you until 5:00 and send you
23 back home, until a few moments before then, to
24 bring in another witness, we'll discharge you
25 for the day and once again, discuss with your

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2 family the extension of this case. There will
3 be no trial on Friday or Monday. The matter
4 would wrap up next week. It will not go
5 beyond that. We're trying to wrap it up this
6 week, and we're talking about literally a day,
7 two days. It's one of those things,
8 considering the time you have all expended in
9 this case, the old adage about for the want of
10 a nail, a shoe was lost, et cetera. Remember
11 my admonitions once again.

12 You may not form an opinion about
13 this case until it's finally submitted to you
14 for your deliberations. You may not discuss
15 this case or any matter connected with the
16 trial among yourselves nor with anyone else.
17 Do not read or listenn to accounts or
18 discussion of the case reported by the news
19 media or on the Internet. You may not visit
20 or view the place or place where the offenses
21 charged were allegedly committed or any other
22 place discussed during the course of the
23 trial. Promptly report to this court any
24 incident within your knowledge of an attempt
25 by any person to contact or influence a member

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2 of this jury. Do not discuss with any person
3 the receiving or accepting of payment or
4 benefit in consideration for supplying any
5 information concerning the trial.

6 Once this -- discuss with your
7 families, sitter, the extra time, the effect
8 it will have on you, and we'll discuss it
9 tomorrow if it creates difficulties.

10 The case will continue tomorrow
11 morning at 11:00 o'clock. Thank you all very
12 much.

13 (The Jury is excused)

14 THE COURT: Thank you. Please be
15 seated.

16 At this time, we'll recall --

17 MR. KEAHON: I need a few minutes,
18 judge.

19 THE COURT: Whenever you're ready
20 to go.

21 The court will stand in recess to
22 allow you to work on your cross-examination.

23 MR. KEAHON: Thank you.

24 THE CLERK: Remain seated, come to
25 order. Case on trial continued. All parties

1 CROSS/Fortune - *In Limine* Hearing

2 present.

3 THE COURT: This is a continuation
4 of the hearing *in limine* to determine the
5 threshold issue of Mr. Whitehead's signature
6 via the testimony of Ms. Georgia Fortune.

7 Are you ready to conduct your
8 cross-examination?

9 MR. KEAHON: I am, your Honor.

10 THE COURT: We'll recall Ms.
11 Fortune to the stand.

12 (The Witness resumes the stand)

13 THE COURT: Ms. Fortune, follow the
14 officer's instructions. You can resume your
15 seat.

16 THE CLERK: Ms. Fortune, I remind
17 you, you're testifying under oath.

18 CROSS-EXAMINATION

19 BY MR. KEAHON:

20 Q. Good afternoon, Ms. Fortune.

21 A. Hello, how are you?

22 Q. I'm fine, thank you, and yourself?

23 A. Good.

24 Q. Ms. Fortune, you told us that you were 31
25 years of age?

1 CROSS/Fortune - In Limine Hearing

2 A. Yes.

3 Q. And you're employed at the present time?

4 A. Yes, I am.

5 Q. And what do you do, ma'am?

6 A. Um -- I prefer --

7 THE WITNESS: Excuse me, judge.

8 MR. PEARL: Just to make it -- my

9 request, it's an objection but more of a

10 request, to keep it as general as possible.

11 Based on prior D.V. history, we prefer not to

12 have Ms. Fortune disclose her work address or

13 workplace on the record.

14 A. I work in human resources.

15 Q. I'm sorry?

16 A. I work in human resources.

17 Q. And is that with a school?

18 A. No.

19 Q. With a corporation?

20 A. Yes, it is.

21 Q. How long have you been doing that, ma'am?

22 A. It's about two and a half years? Going on

23 two and a half years.

24 Q. Can you tell me when is the first time

25 that you were contacted by the district attorney's

1 CROSS/Fortune - In Limine Hearing

2 office?

3 A. I was contacted on -- it was very recent.

4 I would say within a week or two? A week or two?

5 Q. Could it have been within the last two
6 days?

7 A. When I was contacted again, yes. Um...

8 Well, could you basically clarify that
9 question, because I mean are you speaking of the
10 original contact, when I was originally contacted?

11 Q. When was that?

12 A. I was contacted about, probably about a
13 week ago --

14 THE WITNESS: Could you hear me.

15 Q. Yes, I can. One week ago?

16 A. Yeah, about a week ago, not exactly a week
17 ago. I don't remember offhand, but yeah.

18 Q. That contact, was it by phone or in
19 person?

20 A. The first contact was by the telephone.

21 Q. And who was it that called you?

22 A. Det. Gabriele.

23 Q. What did he tell you?

24 A. In the conversation, he asked if I knew a
25 Lamar Whitehead. I said, why?

1 CROSS/Fortune - In Limine Hearing

2 He said, "I want to know if you know Lamar
3 Whitehead", and I told him "Yes, I do know Lamar
4 Whitehead, but why are you asking?" And he told me
5 that he was a detective, and currently he's on trial,
6 and they have my name down as a witness, I believe?

7 Q. What else did he say to you?

8 A. He asked if -- he asked -- I'm trying to
9 remember the exact conversation.

10 I believe he asked if --

11 MR. PEARL: Judge, I'm going to
12 object as to relevance to the issue.

13 THE COURT: Thank you. Offer of
14 proof, Mr. Keahon?

15 MR. KEAHON: Yeah, I think there is
16 nothing wrong with asking what he said to her
17 as the predicate to get her in here. I think
18 I'm entitled to know that.

19 THE COURT: But if you would
20 articulate it for the record. Are you saying
21 did he voice any threats or promises?

22 MR. KEAHON: Yes.

23 THE COURT: The objection will be
24 overruled.

25 THE WITNESS: That means I can

1 CROSS/Fortune - *In Limine* Hearing

2 continue.

3 THE COURT: Answer the question,

4 I'm sorry.

5 A. He asked if, if-if-if I can basically come
6 down, I guess, and testify. If I can -- if I see any
7 documents, can I determine Lamar Whitehead's
8 handwriting and be able to testify, basically.

9 THE WITNESS: Should I keep going?

10 THE COURT: Wait for the next
11 question, thank you.

12 Q. What did you say to that?

13 A. I told him "Oh, no."

14 Q. You told him no?

15 A. I told him, "This is a chapter in my life
16 that is closed and I prefer not to." I think I told
17 him I don't want to.

18 Q. What did he say?

19 A. He just basically asked me again. I told
20 him I don't want to.

21 Q. What happened next?

22 A. I'm subpoenaed.

23 Q. Who served the subpoena?

24 A. Det. Gabriele, and it was another person,
25 but I don't remember their name. That individual's

1 CROSS/Fortune - In Limine Hearing

2 name.

3 Q. Did Det. Gabriele ask you if you had any
4 written communications, letters, from my client?

5 A. Yes, he did.

6 Q. And when he asked you if you had received
7 any letters, what did you tell him?

8 A. -- letters? I told him I've had letters
9 from the individual. He asked if I ever had letters,
10 and I said, I did receive letters.

11 Q. Did he ask you to search for them?

12 A. He asked if I can, if I can locate them,
13 yes.

14 Q. Did you locate any letters?

15 A. I wasn't able to.

16 Q. Did he ask you if you had received any
17 cards from my client?

18 A. Yes, he did.

19 Q. What did you tell him?

20 A. I told him I have received cards from him
21 at one point in time.

22 Q. Did he ask you if you still had them?

23 A. He asked if I had, still had them.

24 Q. What did you say?

25 A. I told him I was uncertain. There were a

1 CROSS/Fortune - In Limine Hearing

2 couple of things I threw out, but a couple of things
3 I saved. But, again, I've moved and I'm uncertain if
4 I have them.

5 Q. So you were unable to find any cards that
6 my client had sent to you?

7 A. Correct.

8 Q. When I speak about "cards", I'm talking
9 about holiday cards or birthday cards? Did you find
10 any of those items?

11 A. Any of the postcards? No, I did not.

12 Q. When were you served with a subpoena?

13 A. When I was served with subpoena... it
14 was -- the subpoena was served to me Friday?

15 Q. This past Friday?

16 A. Yes, this past Friday.

17 Q. And you appeared on -- did you have a
18 conversation with Det. Gabriele, when he served you
19 with the subpoena?

20 A. Yes, I had a conversation.

21 Q. Did you talk about your ability to
22 identify any handwriting at that time?

23 A. No, you just asked me -- the same question
24 he asked me on the telephone, and when I was
25 subpoenaed, I'll have you look at a couple of things,

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2 would you be able to identify it.

3 Q. He told you he was going to have you look
4 at a few things?

5 A. Yes.

6 Q. Did he bring anything with him to show
7 you? Any handwriting allegedly done by my client?

8 A. That Friday? I do not recall.

9 Q. How much time did he spend with you on
10 Friday?

11 A. I do not have an exact answer for that.

12 Q. Approximately?

13 MS. FRANZESE: Objection, your
14 Honor, as to relevance, outside the scope of
15 the hearing.

16 THE COURT: Overruled. You can
17 answer the question if you can.

18 A. I -- I would say within the realm of an
19 hour, or maybe a little less. It may be less. I
20 would assume within the realm of an hour.

21 Q. So he comes on Friday, he serves you with
22 a subpoena. He tells you he wants you to look at
23 some items to identify as the handwriting of Lamar.
24 What else does he say in that -- up to an hour?

25 A. Well, I basically told him I don't want to

1 CROSS/Fortune - *In Limine* Hearing

2 testify. So the gist of our conversation although I
3 was subpoenaed and served was, I don't want to
4 testify. So that's what we were basically going back
5 and forth with, and he explained what a subpoena
6 means.

7 Q. Okay?

8 A. So...

9 Q. And what happened on Monday? You came
10 out on Monday.

11 A. Are you asking me if I came out on Monday.

12 Q. Yes?

13 A. Yes, I came out on Monday.

14 Q. Who did you meet with on Monday?

15 A. I sat with Det. Gabriele and... District
16 Attorney Raphael, and I'm not sure of her last name,
17 but her first name is Jodi.

18 Q. Sure?

19 A. I'm sorry.

20 Q. I said sure, yes. You got the name
21 correct?

22 A. Okay.

23 Q. What did you do with her?

24 A. They basically -- we spoke about
25 the -- what they basically need me to do in terms of

1 CROSS/Fortune - In Limine Hearing
2 identify the handwriting, and I guess if I can
3 identify anything else. And I'll be meeting
4 with -- I guess the judge, and I guess whatever else
5 needs to take place that exact date.

6 Q. How much time did you spend with him on
7 Monday?

8 A. Well, I could basically say, almost a
9 whole day, because I didn't get to come downstairs
10 until later that afternoon.

11 Q. Right? Did they have you look at a number
12 of items?

13 A. Yes.

14 Q. As you looked at those items, were they
15 the same items that you were shown in court?

16 A. Yes.

17 Q. Anything in addition to those items that
18 were in that book?

19 A. No, just in terms of the handwriting, no.
20 Exactly was in that book.

21 Q. How long did you spend going through that
22 book, looking at the items?

23 A. I don't have an -- an actual time.

24 Q. Approximately?

25 A. Honestly, I really didn't -- I really

1 CROSS/Fortune - In Limine Hearing

2 didn't time it. I was there all day? So I

3 wouldn't --

4 Q. Okay?

5 A. I wouldn't have an answer, I'm sorry.

6 Q. Well, when you were sitting with Mr.
7 Pearl and Det. Gabriele, and Jodi, did you go through
8 that book in front of them?

9 A. Yes.

10 Q. Did they ask you as to each specific page
11 in the book, if you could identify it as being the
12 handwriting of Lamar?

13 A. Yes.

14 Q. Was Det. Gabriele taking notes?

15 A. --

16 Q. As to what you were indentifying and what
17 you weren't indentifying?

18 A. He -- he had a piece of paper and a pen in
19 his hand. I can't answer if he was actually taking
20 note.

21 Q. Was he writing?

22 A. He was writing.

23 Q. And was he writing as you would indicate
24 when you could or couldn't identify certain items?

25 A. Yes.

1 CROSS/Fortune - In Limine Hearing

2 Q. What about Mr. Pearl? Was he doing the
3 same?

4 A. Which -- is that Raphael Pearl.

5 Q. The good-looking fella at the front table?

6 A. Oh, yes. Also. I didn't know.

7 Q. What about Jodi, Jodi Franzese. She was
8 taking notes, as well as speaking with you, or was it
9 just Mr. Pearl and Det. Gabriele?

10 A. From what I saw, it was Mr. Pearl and Det.
11 Gabriele.

12 Q. Did they have you sign anything after
13 reviewing that book?

14 A. I don't recall signing anything.

15 Q. You told us that you met Lamar when you
16 were 15 or 16 years of age?

17 A. Yes.

18 Q. And where were you living?

19 A. We were -- I lived, 940 Prospect.

20 Q. I think you indicated that Lamar lived
21 there also?

22 A. Yes.

23 Q. Who did he live there with?

24 MS. FRANZESE: Objection as to
25 relevance. Outside the scope of the hearing.

1 CROSS/Fortune - *In Limine* Hearing

2 THE COURT: Overruled. Familiarity
3 with the defendant's handwriting, walks hand
4 in hand with long-standing acquaintance. So
5 I'll allow cross-examination on this question
6 on the basis of the relationship of the
7 defendant with the witness, because it also
8 could have a bearing on the possible issue of
9 bias. So I'll allow it.

10 You can answer the question.

11 A. Okay. His family?

12 Q. Yes?

13 A. His family.

14 Q. Who was in his family?

15 A. In particular, if I remember correctly, it
16 may have been his -- I remember there was a brother,
17 a mother and a sister.

18 Q. A brother, mother and sister?

19 A. I believe so. Yes.

20 Q. What was his brother's name?

21 A. I don't remember the brother's name.

22 Q. What about his mother?

23 A. I don't remember the mother's name.

24 Q. What about his sister's name?

25 A. I don't remember the sister's name.

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2 Q. I think you told us when you met him, when
3 you were 15 or 16, your family didn't permit you to
4 date?

5 A. No, I wasn't allowed to date at that age.

6 Q. I think you also told us that you moved
7 from that location?

8 A. I did.

9 Q. At what age?

10 A. We lived there probably about a year and a
11 half. It wasn't very long I lived at that -- the
12 location.

13 Q. Okay. Then you moved to where?

14 A. I moved to Eastern Parkway, and shortly
15 after, my parents purchased a house in another area.

16 Q. Where?

17 A. In Flatbush.

18 Q. I think you told me that Lamar also moved
19 out?

20 A. Yes.

21 Q. Where did he move to?

22 A. I don't recall. I don't know.

23 Q. You didn't date him when you were 17?

24 A. No.

25 Q. 18?

1 CROSS/Fortune - In Limine Hearing

2 A. No.

3 Q. 19?

4 A. No.

5 Q. 20?

6 A. No.

7 Q. 21?

8 A. No.

9 Q. 22?

10 A. No.

11 Q. 23?

12 A. I have to sit there and count my age now.

13 Q. You told us you were 31?

14 A. Uh-hum.

15 Q. I think you told us you stopped dating
16 him in 2002, wasn't that your testimony yesterday?

17 A. That was when we met again. We used to
18 see each other at clubs and different areas around a
19 part of 2002.

20 Q. Your testimony yesterday wasn't that you
21 stopped dating him at the end of 2002?

22 A. No, it was not.

23 Q. So you first got together again with him
24 in 2002?

25 A. The late part of 2002.

1 CROSS/Fortune - In Limine Hearing

2 Q. So from the time you were 15 or 16, you
3 moved a year and a half after that, you didn't date
4 him at all, and then about six years ago you ran into
5 him again, and I think you told us you would go to
6 clubs, 2002?

7 A. Yes.

8 Q. Did you start dating him in 2002?

9 A. The late part of 2002, yes.

10 Q. Where was he living?

11 A. He lived off of -- on Flatlands?

12 Q. I'm sorry?

13 A. I'm not exactly sure the name -- it was
14 off of Flatlands, an apartment complex.

15 Q. Were you ever there?

16 A. I have been there.

17 Q. Was it -- was he living with his parents?

18 A. I haven't seen -- I didn't see any
19 parents, no.

20 Q. Who was he living there with?

21 A. I believe by himself.

22 Q. Was it a high rise?

23 A. Meaning a tall building.

24 Q. Yes?

25 A. Yes.

1 CROSS/Fortune - In Limine Hearing

2 Q. What floor did he live on?

3 A. The second floor?

4 Q. What was his telephone number back then?

5 A. I don't remember the telephone numbers.

6 Q. How many times did you go to that
7 apartment?

8 A. (Shakes head)

9 Q. Once? Twice?

10 A. Approximately -- it wasn't a lot? I don't
11 have the exact amount.

12 Q. Approximately?

13 A. Not a lot. About four times.

14 Q. How many rooms were in the apartment?

15 A. Don't remember -- I don't remember.

16 Q. Was there more than one bedroom?

17 A. I don't remember.

18 Q. Did you ever see anybody else there, any
19 of the four times you went?

20 A. No, I have not.

21 Q. What type of vehicle was he driving in
22 2002?

23 A. At that time, I remember a red Mercedes.

24 Q. Was it a two seater or a big sedan?

25 A. It's not a big sedan.

1 CROSS/Fortune - In Limine Hearing

2 Q. When did you actually, I think you told us
3 you began dating the end of 2002.

4 A. (Nods)

5 Q. In 2002, did you receive any cards from
6 him?

7 A. I don't recall exactly if I received any
8 cards from him exactly in 2002, or any exact dates.

9 Q. What about letters? In 2002?

10 A. (No verbal response)

11 Q. If you don't recall, you don't recall?

12 A. I don't recall the exact dates of the
13 letters, no.

14 Q. Now, if you started dating him the end of
15 2002, when did you stop dating him? I think you told
16 us you dated him for about a year?

17 A. A little over a year. Very little over a
18 year.

19 Q. Sometime toward the end of 2003?

20 A. Yes.

21 Q. What month is your birthday?

22 A. November.

23 Q. If your birthday is in November and you
24 began dating him the end of 2002, and you stopped
25 dating him in 2003, you didn't get any birthday cards

1 CROSS/Fortune - In Limine Hearing

2 from him, did you?

3 MR. PEARL: Objection, form.

4 THE COURT: You can answer the
5 question.

6 A. I've gotten birthday cards from him, as
7 well as Valentine's Day cards, and Christmas cards.
8 If you're asking me specific dates, I don't know.

9 MR. KEAHON: Let's stay with it a
10 minute.

11 Q. You started dating him the end of 2002,
12 you told us?

13 A. (Nods)

14 Q. You end up dating him the end of 2003?

15 A. (Nods)

16 Q. You told us your birthday's in November,
17 yes?

18 A. Would you like me to answer, or are you
19 answering.

20 Q. I made a statement and I said "yes", with
21 a question mark?

22 A. I thought you was asking me. Yes.

23 Q. You didn't receive any birthday card in
24 2002 or 2003, did you?

25 MS. FRANZESE: Objection, your

1 CROSS/Fortune - *In Limine* Hearing

2 Honor, asked and answered.

3 THE COURT: Overruled, parsing the
4 question but permissible.

5 A. That is not correct.

6 Q. Did you receive a birthday card in 2002?

7 A. I don't recall exactly when I received the
8 birthday card. It could be 2002 or 2003.

9 A. --

10 Q. Okay, but I did receive cards?

11 Q. I'm talking about a birthday card. How
12 many did you receive?

13 A. I don't recall.

14 Q. So -- was it the type of birthday card
15 that was pre-printed, and he would sign, "Lamar",
16 "Love, Lamar"?

17 A. It was a pre-printed card, yes. They were
18 pre-printed cards.

19 Q. Did he send you an Easter card?

20 A. No. I don't recall seeing an Easter card.

21 Q. Valentine's Day card?

22 A. I did receive a Valentine's Day card.

23 Q. One?

24 A. Yes, one.

25 Q. That would be 2003.

1 CROSS/Fortune - *In Limine* Hearing

2 A. Yes.

3 Q. Christmas card?

4 A. It was a holiday card -- yes.

5 Q. And you received one?

6 A. Yes.

7 Q. I'm sorry?

8 A. I believe it's one, yeah.

9 Q. And for what year?

10 A. I don't recall the year.

11 Q. Okay. The Valentine's Day card, and the
12 holiday card, as well as the birthday card that you
13 told us about, they were all pre-printed that you
14 would buy in a stationary store, am I right?

15 A. Correct.

16 Q. And he would say to you, your first name,
17 and he would sign "Lamar"?

18 A. They were pre-printed, and he did sign,
19 yes. Correct.

20 Q. Now, for that year-period that you dated
21 him, the end of 2002 to the end of 2003, did you ever
22 meet any member of his family?

23 A. No.

24 Q. Were you in 2000 -- the end of 2002, to
25 the end of 2003, were you living by yourself?

1 CROSS/Fortune - *In Limine* Hearing

2 A. No.

3 Q. Well, you were 26, 27 at the time. Were
4 you living at home with your family?

5 A. I, um, a portion I lived -- I lived with
6 someone.

7 Q. I'm sorry?

8 A. I lived with someone and I lived at home.

9 Q. When you say you "lived with someone", a
10 boyfriend?

11 A. No.

12 Q. Oh?

13 A. A female.

14 Q. Did any member of your family ever meet
15 Lamar?

16 A. Yes.

17 Q. Who would that be?

18 A. My brother, my sister. My mother, my
19 stepfather. And my friend -- a few of my friends.

20 Q. Did you ever meet any friends of, friends
21 of Lamar during that period?

22 A. Well.

23 Q. Did he ever introduce you to anybody?

24 A. No.

25 Q. From the end of 2002, to the end of 2003,

1 CROSS/Fortune - *In Limine* Hearing

2 did you ever go out on a date with him?

3 A. We went out to eat -- we went out to eat.
4 He has been to my home to eat. That is basically it.
5 I mean...

6 Q. Out to eat or to your house to eat?

7 A. He'd been to my house.

8 Q. How often did you do that?

9 A. He'd been to my house several times so I
10 can't count the several times -- the amount of times
11 he has been to my house, my home.

12 Q. How often during that year period did you
13 go out to eat, to dinner?

14 A. It was not often.

15 Q. How many times in that year?

16 A. I don't have a number, amount.

17 Q. You told us on direct that you went to
18 college?

19 A. I did.

20 Q. And you graduated?

21 A. (Nods)

22 Q. Congratulations.

23 What college did you go to?

24 A. Long Island University.

25 Q. Where did Lamar go?

1 CROSS/Fortune - *In Limine* Hearing

2 A. I don't know where he actually attended.

3 But -- I don't know where he actually attended.

4 Q. Well, when you were dating him in 2002,
5 the end of 2002, the end of 2003, had he told you he
6 had been to college already?

7 A. He has told me.

8 Q. Where did he tell you he went?

9 A. He told me he went to school -- I guess a
10 scholarship in North Carolina. But I don't know the
11 exact name of the college. I don't...

12 Q. Other than going out to dinner a few times
13 and having him to your house a few times, where else
14 did you go with him?

15 A.

16 Q. No other places?

17 A. No, not that I recall, no.

18 MR. KEAHON: I'm almost finished,
19 ma'am.

20 (Pause)

21 Q. Do you know what high school he went to?

22 A. I don't recall high school.

23 Q. Do you wear glasses, ma'am?

24 A. I have reading glasses.

25 Q. You didn't have them on yesterday.

1 CROSS/Fortune - *In Limine* Hearing

2 A. No. They are used for the computer.

3 Q. What is your eyesight?

4 A. I don't know.

5 Q. Are they prescription glasses?

6 A. Yes.

7 Q. You didn't use them yesterday when you
8 looked at those documents, did you, when you were
9 with Mr. Pearl?

10 A. No, I did not. I didn't have them.

11 THE WITNESS: Can I use the
12 bathroom?

13 MR. KEAHON: I'm just about
14 finished. I think I am. Just give me one
15 sec.

16 THE COURT: Yes.

17 Q. We talked about holiday cards, birthday
18 cards, a Valentine's Day card, he never wrote you a
19 letter, did he?

20 A. He's written -- he, like, notes, if that's
21 what you consider a letter. But notes. Are you
22 asking of a full page letter? Letter?

23 Q. Yes?

24 A. No.

25 Q. When you say he's written you "notes",

1 CROSS/Fortune - *In Limine* Hearing

2 what kind of notes?

3 A. Like, Post-It notes?

4 Q. I'm sorry?

5 A. Post-It note.

6 Q. You mean on the little yellow piece of
7 paper?

8 A. It doesn't necessarily have to be a yellow
9 piece of paper, but you know.

10 Q. Would he send those to you in the mail?

11 A. No.

12 Q. Well, how is it that he would give you a
13 Post-It?

14 A. No, he would leave -- he left Post-Its
15 before on my car. It was incidents when they had the
16 black-out and he couldn't find me, he left a note
17 on -- "You're not at your house. Call me when you
18 can."

19 Q. How many times did he leave the Post-It?

20 A. Just a couple of times. It wasn't....

21 THE WITNESS: I need to go to the
22 bathroom.

23 THE COURT: We have to take a
24 break, if you're not finished Mr. Keahon. The
25 witness has requested a brief recess.

1 CROSS/Fortune - *In Limine* Hearing

2 We're going to take a brief recess
3 right now.

4 THE WITNESS: Is this the last
5 question?

6 THE COURT: I direct you not to
7 discuss your testimony with any person.

8 Officer, if you would attend.

9 (Brief recess)

10 THE CLERK: Ms. Fortune, I remind
11 you, you're testifying under oath.

12 THE WITNESS: Thank you.

13 THE COURT: You may continue your
14 examination.

15 MR. KEAHON: Thank you, judge.

16 BY MR. KEAHON:

17 Q. Was there anything distinctive about his
18 handwriting?

19 A. That I've noticed.

20 Q. Yeah?

21 A. In my -- in my -- yeah. To me, yes.

22 Q. What was that?

23 A. It would be the certain way he writes
24 letters.

25 Q. What letters?

1 CROSS/Fortune - *In Limine* Hearing

2 A. Particularly the "Y" and the "G".

3 Q. I think you said he wrote them the same
4 way?

5 A. They were similar to -- yeah.

6 Q. And that's it?

7 A. Sometimes when he -- started, I guess a
8 word, it will be the first two letters that may be
9 capital, and then also the way he wrote a little bit
10 sloppy as though he was in a rush. But those things
11 are things I noticed.

12 Q. When did you ever actually see him write
13 anything? Never?

14 A. I have --

15 MR. PEARL: Objection.

16 MS. FRANZESE: Objection, your
17 Honor.

18 Q. What have you seen him write?

19 A. I've seen him on the phone just taking
20 notes of whatever I guess conversation he's having.

21 Q. How many times did that happen?

22 A. A few times.

23 Q. When you say "a few", one or two?

24 A. A little bit more.

25 Q. Three, four?

1 CROSS/Fortune - In Limine Hearing

2 A. Probably a little bit more.

3 Q. Where was he on the phone?

4 A. At my house.

5 Q. I'm sorry?

6 A. At my house, in front of my stoop, my
7 parents' stoop.

8 Q. Was he using your phone or his phone?

9 A. No. He was on his own phone.

10 Q. And you were watching the notes he took?

11 A. (Shrugs)

12 Q. Is that right?

13 A. Yes, some of them.

14 Q. Any other times you see him write
15 anything?

16 A. Other than those times, I don't recall.

17 Q. Okay. So maybe a couple of times on the
18 stoop and a couple of times in your house?

19 A. Yes.

20 Q. And he was on the phone making notes,
21 right?

22 A. Yes. Taking notes.

23 MR. KEAHON: Thank you very much.

24 THE COURT: Any redirect?

25 MR. PEARL: Just one.

1 REDIRECT/Fortune - *In Limine* Hearing

2 REDIRECT EXAMINATION

3 BY MR. PEARL:

4 Q. Ms. Fortune, do you have -- any graduate
5 education?

6 A. Yes.

7 Q. And what kind of degree do you have?

8 A. I -- was attending Columbia University, a
9 degree in Masters of Arts in organizational
10 development.

11 Q. From Columbia University?

12 A. Yes.

13 MR. PEARL: Thank you.

14 THE COURT: Any cross within the
15 limited parameter of redirect?

16 MR. KEAHON: I have nothing.

17 THE COURT: Ms. Fortune, you may
18 stand down.

19 (The Witness is excused)

20 THE COURT: Does counsel wish to
21 make arguments prior to the ruling on
22 admissibility -- the foundation of the
23 documents in question?

24 MR. KEAHON: No, judge.

25 THE COURT: People?

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2 MR. PEARL: Rely on the testimony.

3 THE COURT: Thank you.

4 MR. KEAHON: I request the notes
5 taken by Mr. Pearl and Det. Gabriele.

6 MR. PEARL: There were no notes
7 taken during any of the two meetings we had
8 with Ms. Fortune.

9 THE COURT: Thank you.

10 The standard of admission pursuant
11 to *People vs. Clark*, 122 A.D.2d 389, leave
12 appeal to deny at 668 N.Y.2d 913, is when the
13 witness, in authenticating a document, has
14 seen the person in question write at least
15 once.

16 In this case the court finds that
17 the witness, Georgia Fortune, has demonstrated
18 a familiarity with the defendant's handwriting
19 by virtue of her seeing him write documents on
20 various occasions and having received
21 documents from the defendant, which were
22 acknowledged by him.

23 When shown People's 153 A, B, C, E,
24 H, J, K, O, U, X, Z, AA, CC, DD, and EE, she
25 stated that in her opinion they were in the

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2 defendant's handwriting.

3 People's 153 D, F, G, L, M, N, P,
4 Q, R, S, T, V, W, Y, BB, F F, were not
5 identified by the witness.

6 Accordingly, the court finds
7 pursuant to *People vs. Fields*, that the
8 people's exhibits, designated as
9 People's -- 153-A, through EE, as noted
10 herein, has been established as genuine
11 exemplars of the defendant's handwriting and
12 may be used by the people before the trier of
13 fact to compare against the questioned
14 document.

15 Your exception will be noted, Mr.
16 Keahon.

17 MR. KEAHON: Judge, I have one
18 thing to note for the record if I could.

19 THE COURT: Yes, certainly.

20 MR. KEAHON: 153-O, P, and Q, and
21 perhaps R, are all part of the same exhibit.
22 And they all -- each of those exhibits
23 contains -- an alleged signature of my client.

24 153-O, she says -- that is the
25 first or second page of the document. She

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2 says it's his.

3 THE COURT: Yes.

4 MR. KEAHON: The signatures that
5 follow in P, Q, and R, I think it's a four or
6 five-page document, she says it's not.

7 MR. PEARL: I think it's P and Q
8 only, and I don't think it goes into R.

9 MR. KEAHON: Oh.

10 THE COURT: When she was
11 affirmative, or just could not identify. But
12 in any event.

13 MR. KEAHON: She said no.

14 THE COURT: In any event, though,
15 Mr. Keahon, the question at this point in time
16 is a mere gatekeeping function by the court.
17 Familiarity was established. She identified
18 it and that satisfies the requirements as far
19 as the people bringing it forward before the
20 jury. What you bring to the court's attention
21 at this time is subject to your
22 cross-examination.

23 MR. KEAHON: Thank you.

24 THE COURT: Is there anything else
25 to place on the record at this time?

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2 MR. KEAHON: No. Just so I have
3 the order straight.

4 MR. PEARL: That's what I was going
5 to do.

6 Tomorrow, I'll bring in Georgia
7 Fortune, Mr. Luber, and we'll have detective
8 Friday -- Det. Gabriele and Det. Freiberg.

9 MR. KEAHON: We'll never get to
10 Freiberg.

11 MR. PEARL: I'm hopeful. I'm still
12 hopeful for Thursday, judge.

13 THE COURT: This is in anticipation
14 of the people's last witnesses.

15 MR. KEAHON: Yes.

16 MR. PEARL: I'm an optimist.

17 THE COURT: Thank you.

18 MR. KEAHON: Judge, I believe we'll
19 probably get done with Ms. Fortune. I believe
20 we'll both have an hour, hour and a half with
21 Mr. Luber. And then I am doing Det. Gabriele.

22 MR. PEARL: Then I'll finish up
23 Det. Gabriele tomorrow.

24 MR. KEAHON: So you'll do another
25 direct of him.

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2 MR. PEARL: Very short, to finish
3 one of the charts.

4 MR. KEAHON: He'll be after Luber.

5 MR. PEARL: Yes, because then the
6 handwriting will be in.

7 MR. KEAHON: Okay.

8 THE COURT: It does appear that the
9 jury indicates that we will be able to have a
10 sufficient number available if we go into next
11 week, as well.

12 MR. KEAHON: I think for Thursday,
13 we'll have Det. Gabriele and Freiberg.

14 If we rest, then we've done what we
15 said, haven't we? With the jurors.

16 THE COURT: That is correct.

17 Is there anything else to place on
18 the record at this time?

19 MR. PEARL: Judge, there was an
20 error in the order of protection I submitted
21 to the court yesterday. I had the expiration
22 date and the issuance date, the year reversed.
23 I'm going to ask the court to reissue that
24 same order of protection based on the same
25 application,

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2 THE COURT: Do you wish to be heard
3 further, Mr. Keahon? Or I'll rely on the
4 remarks made yesterday.

5 MR. KEAHON: I do, sir.

6 THE COURT: You wish to be heard
7 further.

8 MR. KEAHON: No.

9 THE COURT: Thank you.

10 To correct a typographical error,
11 the court will issue the amended order with
12 all of the essential terms heretofore with the
13 new expiration date written therein.

14 The record will also reflect that
15 Mr. Keahon will sign on behalf of Mr.
16 Whitehead. As agent on behalf of Mr.
17 Whitehead and the court will allow you to do
18 that, as well, if you wish.

19 THE CLERK: On the "X".

20 Let the record reflect the
21 defendant is being served with a copy of the
22 amended order of protection.

23 THE COURT: The record will so
24 indicate.

25 Is there anything else to place on

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2 the record at this time?

3 MR. KEAHON: No. I was just asking
4 Jodi, my other document that I was given, I
5 don't think has the indentifying -- it
6 doesn't.

7 MS. FRANZESE: It doesn't.

8 I have exactly what you have. I
9 don't have a small copy of that. That came in
10 as is. I was planning on copying something
11 myself onto the sheet that you have.

12 MR. PEARL: Judge, I went through
13 Det. Freiberg's entire file today. I took all
14 his personal handwritten notes. I photocopied
15 it and made sure Mr. Keahon has it at least a
16 day in advance.

17 THE COURT: The court is most
18 obliged to you. Let the record reflect Mr.
19 Keahon praised the prosecution.

20 MR. KEAHON: I did.

21 THE COURT: The court will stand
22 adjourned. Mr. Whitehead, see you tomorrow
23 morning, 11:00 o'clock.

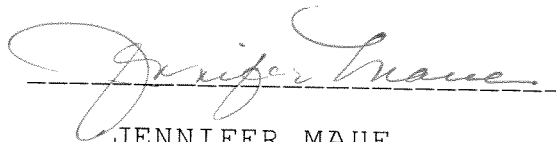
24 (Trial adjourned to Wednesday,
25 March 19, 2008, 11:00 o'clock a.m.)

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2
3 C E R T I F I C A T E
4

5 I, JENNIFER MAUE, a Senior Court
6 Reporter, do hereby certify, that the
7 foregoing matter is a true and accurate
8 transcription of my shorthand notes.

9 IN WITNESS WHEREOF, I have hereunto
10 set my hand.

11
12 
13 JENNIFER MAUE
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